

## INEVITABLE OR IMPROBABLE?

The Crew Against Torture has researched how and why states abolish, retain and reimplement the death penalty—  
And now explain whether Russia could lift its moratorium





Настоящий материал (информация)  
произведен, распространен и (или)  
направлен иностранным агентом  
«Команда против пыток»  
либо касается деятельности  
иностранного агента  
«Команда против пыток»

18+



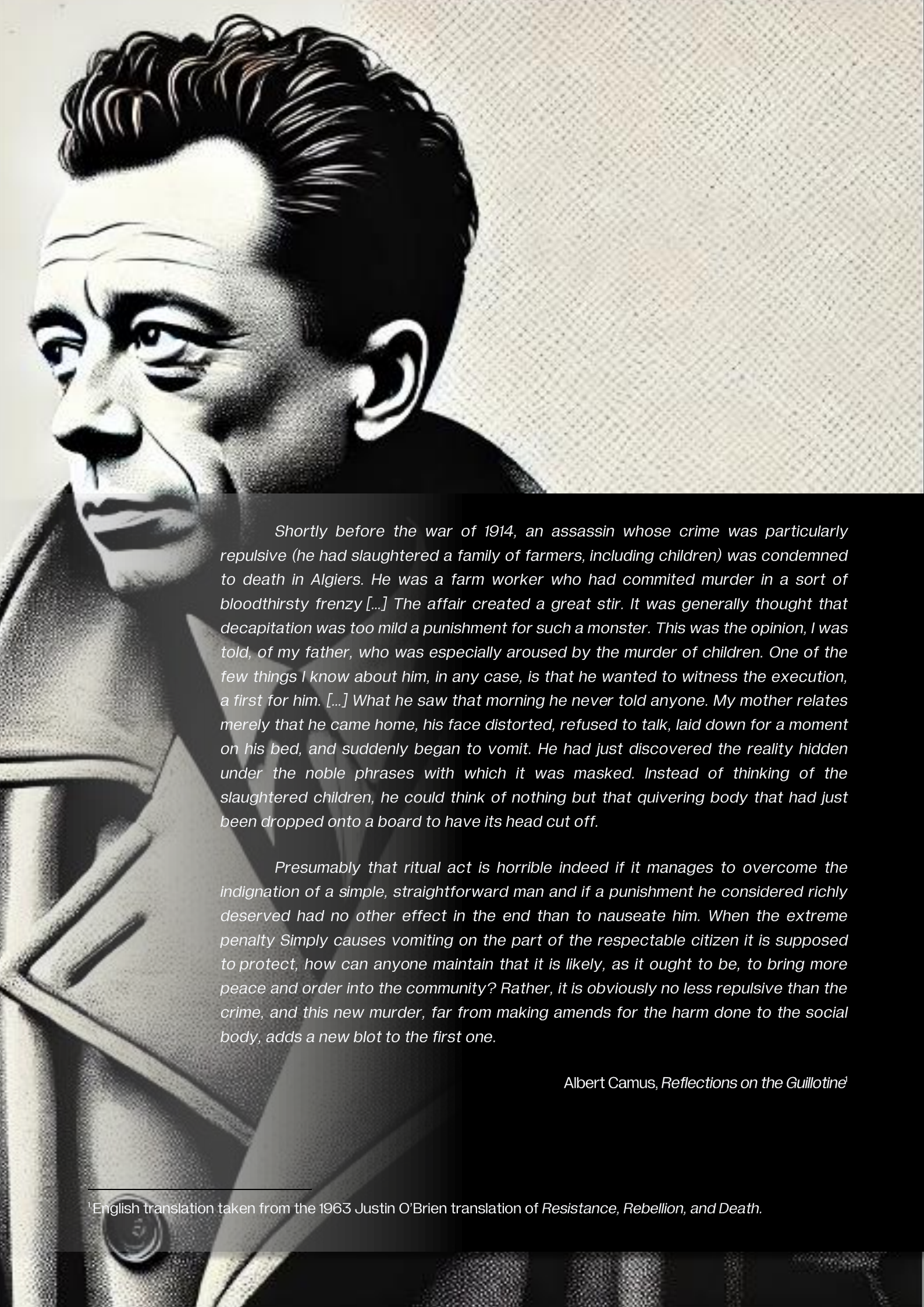
## Table of contents

What this text is about. A (very) lyrical introduction from the authors.....	5
Methodology .....	8
A brief history of the death penalty .....	10
<b>[I] Narratives and patterns Why do countries abolish, retain, or reinstate the death penalty.....</b>	<b>15</b>
1. No variations. Almost all countries justify execution in the same way: sovereignty, public opinion, or deterrence.....	17
— Sovereignty, identity, and opposition to external values.....	17
— Appeal to the people: the State represents the people and acts in their interests .....	19
— Executions are necessary as a deterrent.....	20
— <i>Panem et circenses</i> , or the decision to execute is based on public sentiment .....	21
— Appeals to international law are used in very different ways by supporters and opponents of capital punishment.....	22
— The work of the judiciary unwittingly becomes an argument in favor of execution.....	24
— Is the death penalty expensive?.....	26
— Justice v. humanism: the relationship between satisfaction and the negative aspects of execution .....	27
— Culture, history and religion cannot be ignored.....	30
2. The political structure and the state's attitude toward execution are closely interrelated.....	33
3. A change in the status of execution in a country is preceded by strong perturbations: these can be wars or political crises.....	36
4. Countries that have recently abolished the death penalty are at risk .....	39
— A moratorium on executions or partial abolition precedes complete abolition, but at the same time, incomplete or gradual abolition carries risks of reintroduction .....	39
— Even if the death penalty is reinstated, countries are likely to abolish it again .....	40
— The return of the death penalty after its abolition does not mean that it will be enforced in practice.....	41
5. The greater the influence of international law and supranational human rights institutions, the lower the chance that the death penalty will remain.....	43
6. Public opinion does not influence the decision to abolish or bring back the death penalty (with a caveat) .....	45
7. The country's history as well as religion seem to matter for the death penalty .....	48
8. The death penalty and a country's high level of violence may be linked.....	51
9. Level of economic development matters for the death penalty execution.....	52
10. Is the death penalty dying out? .....	53



<b>[II] Route recalculated? Where is Russia on the road to the revival of capital punishment.....</b>	<b>55</b>
1. Legacy.....	57
2. Pivot.....	59
3. Constitutional Court.....	64
4. To be or not to be for the death penalty?.....	67
— Talk of lifting the moratorium doesn't happen on its own, it follows high-profile events.....	67
— "Moods and expectations of our society", or How Russians look upon execution.....	69
— "There is a lack of cells... and executioners" – just as there is a lack of consensus on the fate of the moratorium in Russia.....	71
5. The letter of the law or the rule of? How Russia can resolve the issue of lifting the moratorium.....	73
— The natural law concept.....	74
— Positivist concept.....	76
<b>In lieu of conclusions.....</b>	<b>79</b>
<b>Annex 1 Profiles of countries included in this study.....</b>	<b>84</b>
Japan.....	84
China.....	85
Belarus.....	86
Singapore.....	87
USA.....	88
Malaysia.....	89
Pakistan.....	90
Papua New Guinea.....	91
Philippines.....	92
New Zealand.....	93
Nepal.....	94
Marrocco.....	95
France.....	96
Turkey.....	97
Kazakhstan.....	98
Maldives.....	99
Great Britain.....	100
South Korea.....	101
<b>Annex 2 Death Penalty in Russia – a review through the prism of international human rights law.....</b>	<b>102</b>





Shortly before the war of 1914, an assassin whose crime was particularly repulsive (he had slaughtered a family of farmers, including children) was condemned to death in Algiers. He was a farm worker who had committed murder in a sort of bloodthirsty frenzy [...] The affair created a great stir. It was generally thought that decapitation was too mild a punishment for such a monster. This was the opinion, I was told, of my father, who was especially aroused by the murder of children. One of the few things I know about him, in any case, is that he wanted to witness the execution, a first for him. [...] What he saw that morning he never told anyone. My mother relates merely that he came home, his face distorted, refused to talk, laid down for a moment on his bed, and suddenly began to vomit. He had just discovered the reality hidden under the noble phrases with which it was masked. Instead of thinking of the slaughtered children, he could think of nothing but that quivering body that had just been dropped onto a board to have its head cut off.

Presumably that ritual act is horrible indeed if it manages to overcome the indignation of a simple, straightforward man and if a punishment he considered richly deserved had no other effect in the end than to nauseate him. When the extreme penalty simply causes vomiting on the part of the respectable citizen it is supposed to protect, how can anyone maintain that it is likely, as it ought to be, to bring more peace and order into the community? Rather, it is obviously no less repulsive than the crime, and this new murder, far from making amends for the harm done to the social body, adds a new blot to the first one.

Albert Camus, *Reflections on the Guillotine*<sup>1</sup>

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<sup>1</sup>English translation taken from the 1963 Justin O'Brien translation of *Resistance, Rebellion, and Death*.



What this text is about.

A (very) lyrical introduction from the authors

What is the death penalty?

Most of us inevitably associate these words with history and culture. We have often read about the medieval Inquisition, about the religious traditions of other nations to take a life for a crime or an insult. We love fictional movies set in a time when execution was considered normal; we watch modern true crime with interest, a genre where protagonists often die in the electric chair, but all this happens somewhere far away, not in our time or near us in any way. We are familiar with the means and reasons for putting criminals to death.

But at the same time, many of us probably don't remember the name of the last person executed in Russia, and certainly not in a dozen other countries – apart from the USA and China – where execution still exists and is applied as a legal means of punishment. We know very little about how people are executed in the countries that still use this punishment – the legal procedures, the methods, the psychology, the people involved, the consequences. It is all extremely remote and often exists in the realm of abstract thinking, not a practical reality.

This is because for many Russians – even for the politically and legally minded – the death penalty is still associated with a specific imagery, something that is known from books and memoirs, a part of family history that bears the trauma of Stalin's terror, or, at worst, a source of fear and anxiety about the future. Hardly any of us personally condemns criminals to be shot, and the number of people who actually carried out this punishment is barely in the hundreds or perhaps even dozens. The stories of those who, in one way or another, personally encountered execution in the last century may be written in textbooks. More than a quarter of a century has passed since a moratorium on capital punishment was introduced in Russia, and during that time, we have forgotten what it means to take a life with the consent of society, performed by state authorities.

This is why discussions about executions, which have risen dramatically in recent years, are particularly frightening. Calls for an end to the moratorium are usually voiced by politicians and activists after high-profile crimes: remember **the case** of 9-year-old Liza Kiseliova from Saratov in 2019, or **the terrorist attack** in Kazan gymnasium No. 175 in 2021. These discussions reached a fever pitch **in the context** of the special military operation in Ukraine and after **the tragic events at the Crocus City Hall** in Moscow in March 2024. When such



events occur, research agencies immediately emerge to conduct surveys on the attitudes of Russians towards execution, while experienced politicians flaunt their knowledge of criminology and penitentiary psychology.

As researchers and human rights activists, we see two threats in this approach. The first is obvious: the Russian penal system is not ready to take responsibility for ending people's lives. The amount of miscarriages of justice, the conveyor belt of convictions, the excessive punishment of some groups, the unpredictability of legislation, with new laws being introduced into the Criminal Code with abandon – all these arguments against capital punishment are very familiar to all of us.

However, it is worth recognising that part of the issue is technical, legislative, and, to some extent, educational, and can be resolved with the appropriate degree of political will. After all, it is theoretically possible to reform the courts, to reconfigure law enforcement and legislative mechanisms in such a way that miscarriages of justice become impossible, and in that case, opponents of the death penalty will be left with no valid arguments. They will have to argue about the ethics and futility of the death penalty. After all, to this day, we do not have a single solid study that would prove the effectiveness of executions in preventing serious crimes.

On the other hand, we realise that the growing intensity of the debate about the death penalty inevitably serves to increase tolerance of state violence: if we give ourselves the right to choose which criminals deserve to die, are we not opening ourselves up to segregation and discrimination? Can we draw a line that makes it acceptable to send certain groups of people to the gallows? Doesn't a society that punishes murderers become a society that kills with the consent of everyone else?

But the most frightening thing is that most Russians who support the return of the death penalty do not understand what they actually stand for. For them, execution is an artistic fantasy, a hypothetical panacea for all of society's ills. But how many of them would be willing to take the responsibility into their own hands and accept a paid position as an executioner? To join the ranks of lawmakers who will divide criminals into those worthy of correction and those unworthy, who deserve to be deprived of the fundamental right to live? And if many are willing to do this, won't this create a new cycle of violence in society? And this is a question of ethics and humanism that is not so easy to resolve, even in purely theoretical terms.

At the same time, such an agenda opens up a clear path for us. We see it as a path of research. Finally, before working on the above-mentioned concerns, we need to understand



whether this time we should take seriously the calls for the return of the death penalty to Russia. Are there any preconditions?

How close is our country to finally lifting the moratorium? How likely is that to happen? And do we need to be scared?



## Methodology

It is quite challenging to make any assumptions about whether the death penalty will be reinstated in Russia. We can make predictions, taking into account the history of the country, the current legal and political realities, and analysing numerous political statements. But it is unlikely that this would yield anything new, much less lead to a reasonably solid conclusion.

That is why we decided to take a different path – a less obvious, more complicated, but also more interesting one. We chose not to study Russia, but foreign countries – those that have already abolished and/or reinstated<sup>1</sup> the death penalty, as well as those that continue to apply it. States may have different histories, cultural values, and political vectors. But no matter what happens in the World, in a global sense, states are interconnected and share common patterns of development. This is why comparative studies remain relevant – we look at other people's experiences, we compare this experience to ours, and we assess how close we are to this or that choice. This is relevant to almost all political and legal phenomena, and the death penalty is no exception. By studying other people's experiences, we wanted to speculatively construct a "track of life" for the death penalty and attempt to understand how it is abolished, why it stays and how it returns across different legal systems, what contributes to the adoption of various decisions regarding its fate, and what patterns we can identify between the structure of the state in the broad sense and the state of capital punishment within it.

At the very beginning of our research, we compiled a large table in which we included a variety of indicators for analysis: we looked for narratives that politicians use to support capital punishment discourse; we studied the history of different countries, attitudes to religion, cultural background, political structure; we assessed the stability of the regimes, the level of economic development at the time of the decision to abolish/reintroduce the death penalty; we studied the results of sociological surveys; we attempted to assess the activity and degree of influence of NGOs on decisions made in the country. Some indicators turned out to be useless, and we gained nothing from analysing them. Others, however, allowed us to establish patterns and identify the "flags" that appear to bring the country closer to a decision on the death penalty.

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<sup>1</sup> In this study, countries that have reintroduced the death penalty are not only those that have lifted the moratorium or reintroduced the death penalty into criminal law, but also those that have continued to practice it after a long period of non-application (even if the law allowed for the imposition and carrying out of executions). There is a **consensus** in international law that countries that retain executions in law but have not carried them out for more than 10 years are considered *de facto* abolitionists.



In our work, we used the whole pool of materials and sources available to us – we communicated with non-profit organisations, scientific institutions of different countries, studied international legal acts, domestic judicial practice, read about a dozen monographs, and hundreds of scientific and popular articles. All our findings are reflected in this text.

At the next stage, we tried to apply the "execution track" of other countries to Russia, which allowed us to conclude how close our country is to the return of the death penalty and what internal conditions might increase or offset this risk. In this sense, we have paid particular attention to countries that have decided to return to capital punishment after abolishing it or introducing a moratorium. We recognise that the final forecast may not be accurate due to various circumstances and "black swan" events. However, the work we have done has definitely brought us nearer to understanding which threats are more concerning and which are worth paying attention to.

This Report is organised in the order in which we conducted our research. At the end of the text, the reader will find appendices – profiles of the countries we studied, summarising the primary sources we used and the information we found.

The study used data up to 1 October 2024.



## A brief history of the death penalty

The death penalty has a long history and a vast geography. Executions have been carried out in virtually every part of the World for a wide range of crimes, some of which do not seem to us today to deserve the death penalty. Traditionally, the primary purpose of executions has been to demonstrate the power of the state and to warn citizens of the serious consequences of breaking the law. For a long time, states regarded execution as one of the most effective means of social control.

The first written rules on capital punishment in world history appeared in the eighteenth century B.C.: the Babylonian *Code of Hammurabi*<sup>1</sup> prescribed execution for nearly three dozen crimes, including sorcery, slander (in the case of murder accusation), and female adultery. *The Hittite Laws*<sup>2</sup> also contained references to execution, and the ancient Greek *Draconian constitution*<sup>3</sup> made death a universal punishment for any crime. The Roman *The Laws of the Twelve Tables*<sup>4</sup> stipulated execution for failure to repay a debt, for example, or for destroying crops at night. Sentences were carried out by crucifixion, drowning, bludgeoning, being burned alive, being staked, and being chopped to pieces. Capital punishment was historically based on the concept of equal punishment, or talion, "an eye for an eye, a tooth for a tooth." It was often carried out in public, in the central squares, to demonstrate to a curious public the consequences of breaking the law.

In *medieval Europe*<sup>5</sup>, the practice of killing people increasingly took on religious overtones: suspected heretics were publicly burned at the stake. Heretics were seen as a threat to Christianity, and the Church led the process of eliminating the undesirable. This is perhaps one

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<sup>1</sup> The Code of Hammurabi is the oldest legislative monument. It was compiled approximately in the 1750s B.C. and named in honor of the Babylonian king Hammurabi, who ruled at that time. Most of Hammurabi's laws are based on the principle of talion, according to which the punishment should literally correspond to the harm caused to the victim.

<sup>2</sup> The Hittite Laws – a code of laws of the Hittite kingdom, compiled in the period from the late 15th to the second half of the 13th century B.C. The code consists of three separate cuneiform texts in the Hittite language, written at different times. The later ones supplemented the earlier laws.

<sup>3</sup> Laws drafted in 624 B.C. by the Athenian legislator Draco. The code of laws was so harsh that it gave rise to the expression "Draconian measures" in Russian (because of its phonetic similarity to the word "dragon"), used to characterize excessive punishments.

<sup>4</sup> A monument of ancient Roman law, dating from 451–450 B.C.

<sup>5</sup> The Middle Ages, or medieval times, are the period of European and Middle Eastern history following Antiquity and preceding the Modern Age. Historians have proposed different chronological frameworks for this period, but the periodization of 500–1500 and 500–1800 is most common.



of the most memorable and colourful historical examples of how the state dealt with those branded as criminals.



Salem witch trials. Illustration generated by ChatGPT

In the late Middle Ages, witches and sorcerers became undesirable – the hunt for them would open a new chapter in the history of executions. The victims in Germany, Switzerland, France, and Scotland numbered in the thousands. The mass religious panic that had broken out in the Old World spread to Europe's colonial overseas territories. The most striking example of this can be found in the history of the United States in the 17th century – the result of the famous "Salem witch trials"<sup>1</sup> was the execution of two dozen people and the imprisonment of about two hundred others.

The spread of the death penalty around the World is closely associated with *colonisation*<sup>2</sup>. In the seventeenth and early nineteenth centuries, for example, England and Wales had what was known as the Bloody Code, a body of criminal law that, at its zenith, imposed the death penalty for more than two hundred different crimes. With the development of colonies in North America, the death penalty expanded there, reflecting the spread of English law throughout the region. It was possible to lose one's life not only for serious crimes, but also, for example, for stealing a rabbit, harming fish in a pond, and cutting down trees.

During the *Age of Enlightenment*<sup>3</sup>, attitudes towards the death penalty began to shift. This change was made possible by the recognition that life is not a divine gift, but an inalienable human right from birth. The role, function, and nature of the state were also reassessed. In the 18th century, the Italian philosopher Cesare Beccaria first **put forward the idea** of abolishing the death penalty, which he considered a barbaric punishment. His logic was that citizens could not

<sup>1</sup> The Salem Witch Hunt is one of the most famous witch hunts in history: a trial that took place in Salem, Massachusetts, USA, from February 1692 to May 1693.

<sup>2</sup> Colonialism – the establishment and maintenance of control and exploitation of people and resources in one country by other countries. Colonizers monopolized political power and considered conquered societies and their peoples inferior to the conquerors in legal, administrative, social, cultural, and sometimes even biological terms.

<sup>3</sup> The Age of Enlightenment is one of the key periods in the history of European culture, associated with the development of scientific, philosophical and social thought. The intellectual movements of that time were grounded in rationalism and the freedom of thought.



delegate the right to kill to the state, since you cannot delegate a right that you do not possess yourself, so the state had no business taking it. The existence of the state is justified by the collective need to protect and defend society, not by any obligation to exterminate people. The thinker also cited the example of the Russian Empress *Elizaveta Petrovna*<sup>1</sup>, who promised not to execute anyone, thus giving the Russian Empire its first declared moratorium, which lasted for 20 years. Beccaria's ideas were recognised and became the impetus for the abolition of the death penalty throughout the World. Subsequently, many other philosophers echoed the same ideas and called for the abolition of the death penalty.

In the nineteenth century, countries began to abolish the death penalty. The first to do so was Venezuela in 1863, but worldwide the process was not rapid. At the beginning of the 20th century, only three countries (Venezuela, San Marino, and Costa Rica) had abolished the death penalty. Two World Wars forced humanity to confront the value, fragility, and inalienability of human life. However, the process of universal abolition of the death penalty continued to be slow. By 1960, **no fewer** than 30 countries had abolished the death penalty in some form or practice. But they remained a global minority.

It was only in the second half of the twentieth century – from around the 1960s – that the trend towards abolition gained momentum: the death penalty was no longer seen as an exclusive right of the state, and the refusal to carry out executions was recognised as part of the fundamental human right to life and one of the guarantees of its protection. The outcome of the Second World War also contributed to this shift: the World became aware of the need for universal international mechanisms to protect human rights, and their dissemination played an essential role in the process of universal abolition of the death penalty. A process that continues to this day.

The abolition of the death penalty in capital cities led to the gradual abolition of this form of punishment in the colonies, as the former had a significant influence on the legislation of the latter. Towards the end of the 20th century, the territory of the Council of Europe (CoE) became a capital punishment-free zone. Over time, the abolition of the death penalty became a mandatory condition for countries seeking to join the Council of Europe. As a result, in the twenty-first century, there are virtually no states in Europe that retain the practice<sup>2</sup>.

In 2007, a majority of UN member states voted in favour of a worldwide moratorium on the death penalty. Nations have joined international conventions banning the practice in times of peace or in all circumstances. Today, about three-quarters of countries have either formally

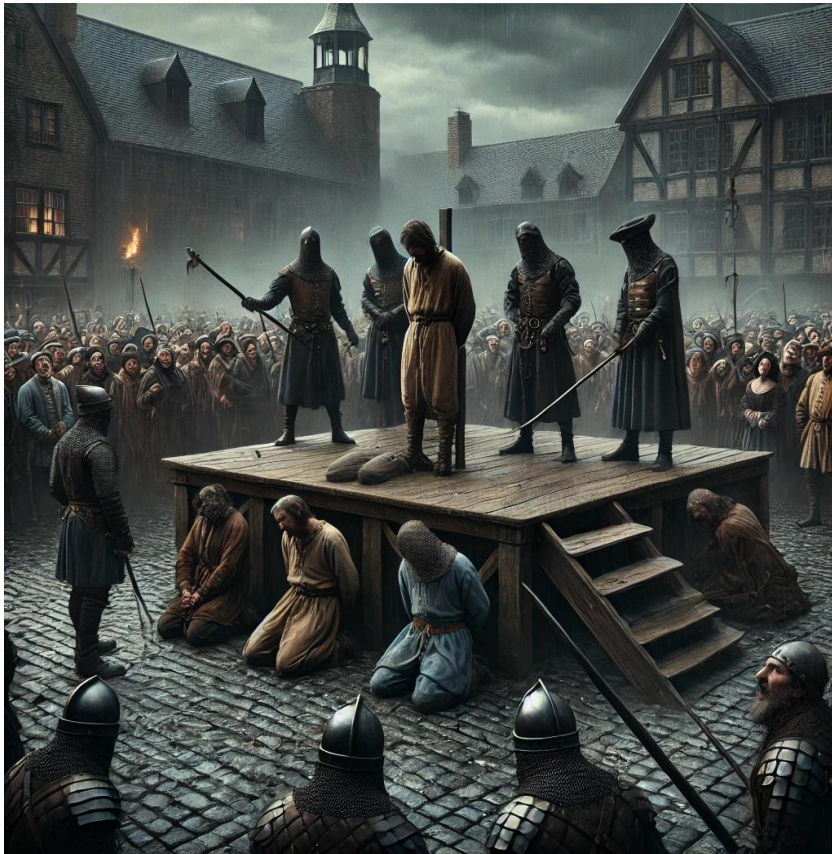
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<sup>1</sup> Elizaveta Petrovna (or Elizabeth of Russia) – Empress of Russia, ruled from 1741 to 1761, daughter of Peter the Great and Catherine I.

<sup>2</sup> Belarus remains the only country in Europe that applies the death penalty as of 2024. Russia, having been a member of the Council of Europe for 26 years, has not removed the death penalty from its legislation, but has not applied this type of punishment since at least 1998.



abolished the death penalty or, while retaining it in legislation, have declined to impose and carry out the death penalty. In many countries, execution has been declared unconstitutional. It is virtually non-existent in Latin America. The death penalty is carried out in some US states, Japan, Asian countries (except Central Asia), and some African countries.



The death penalty from the pages of a book "Discipline and Punish" (Michel Foucault 1975)

Illustration generated by ChatGPT

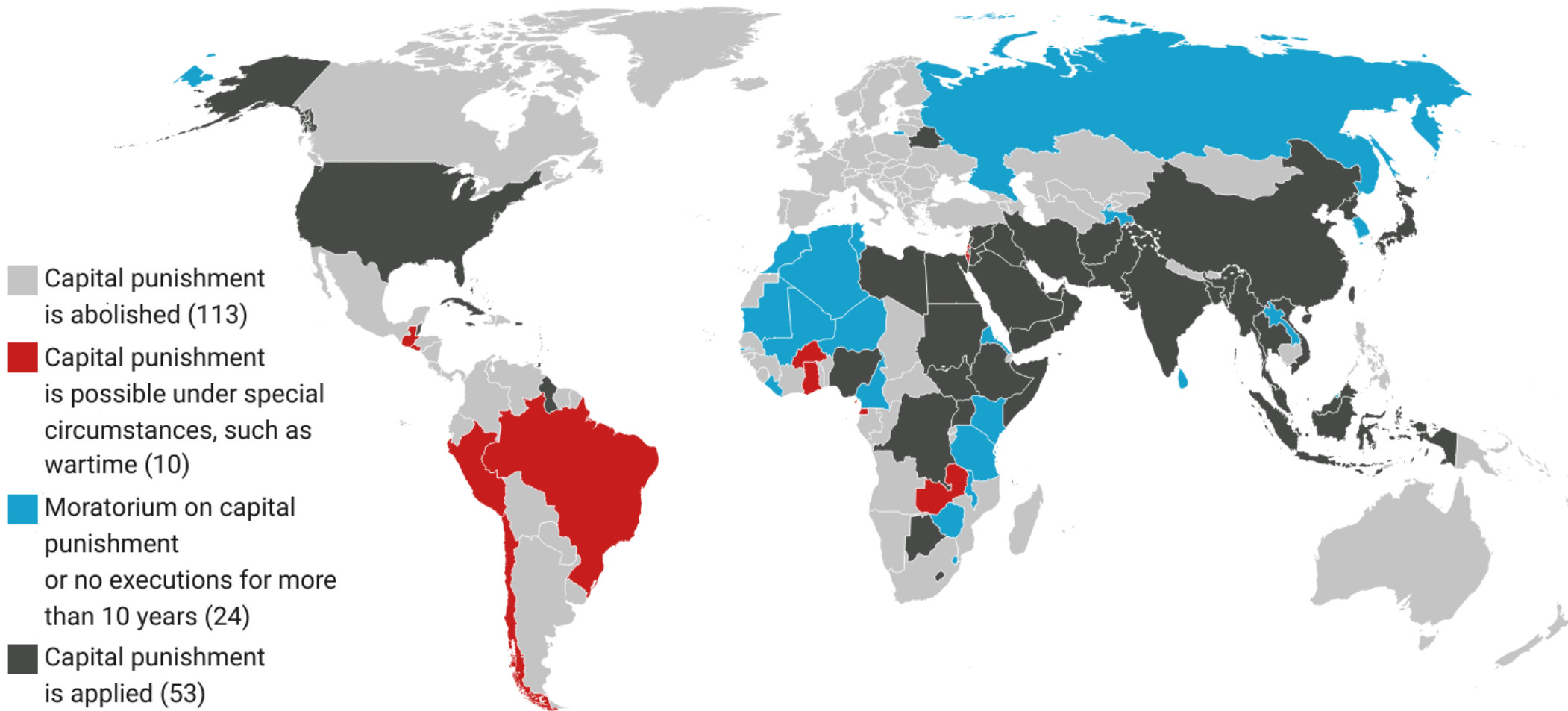
In terms of methods of execution, Saudi Arabia practices beheading as of 2024, while China, the United States, and Vietnam practice lethal injection. Firing squad and hanging remain the most common methods of execution. More rarely, unconventional methods of execution are used, such as the electric chair or mutilation.

As of September 2024,<sup>1</sup> 147 countries have abolished the death penalty in law or practice, while another 53 retain it. China is believed to execute thousands of people each year, but exact figures are unknown. The last country to officially abolish the death penalty for common crimes was **Ghana**, doing so in the summer of 2023.

<sup>1</sup> In our calculations, we relied on open-source data, official statistics, and information from various human rights and scientific organizations.

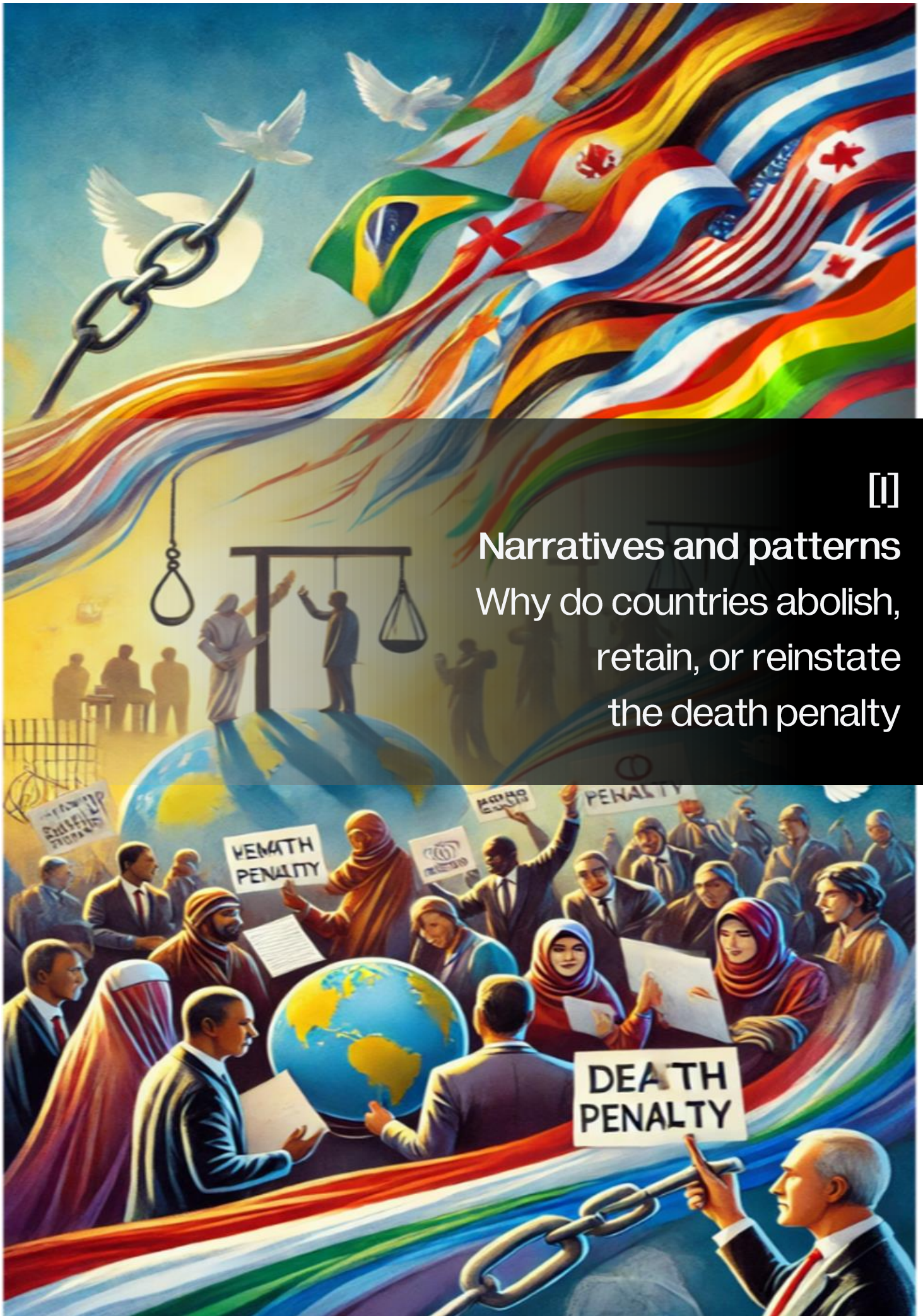


## State of the death penalty in the World (as of October 2024)



Afghanistan Albania **Algeria** Andorra Angola **Antigua and Barbuda** Argentina Armenia Australia Austria Azerbaijan Bahrain Bangladesh Barbados Belarus Belgium Belize Benin Bhutan Bolivia Bosnia and Herzegovina  
 Botswana **Brazil** **Brunei** Bulgaria **Burkina Faso** Burundi Cambodia **Cameroon** Canada Cape Verde CAR Chad **Chile** China Colombia Comoros Congo Costa Rica Croatia Cuba Cyprus Czech Republic  
 Democratic Republic of the Congo Denmark (including Greenland) Djibouti Dominica Dominican Republic Ecuador Egypt **El Salvador** **Equatorial Guinea** **Eritrea** Estonia **Eswatini** Ethiopia Fiji Finland France Gabon **Gambia**  
 Gaza Strip and West Bank Georgia Germany **Ghana** Greece **Grenada** **Guatemala** Guinea Guinea-Bissau Guyana Haiti Honduras Hong Kong Hungary Iceland India Indonesia Iran Iraq Ireland **Israel** Italy Ivory Coast  
 Jamaica Japan Jordan Kazakhstan **Kenya** Kiribati Kosovo Kuwait Kyrgyzstan **Laos** Latvia Lebanon Lesotho **Liberia** Libya Liechtenstein Lithuania Luxembourg Macau Madagascar **Malawi** Malaysia **Maldives**  
**Mali** Malta Marshall Islands **Mauritania** Mauritius Mexico Micronesia Moldova Monaco Mongolia Montenegro **Morocco** Mozambique Myanmar Namibia Nauru Nepal Netherlands New Zealand (including Niue and the  
 Cook Islands) Nicaragua **Niger** **Nigeria** North Korea North Macedonia Norway Oman Pakistan Palau Panama Papua New Guinea Paraguay **Peru** Philippines Poland Portugal Qatar Romania **Russia** Rwanda Saint Kitts  
 and Nevis Saint Lucia Saint Vincent and the Grenadines Samoa San Marino São Tomé and Príncipe Saudi Arabia Senegal Serbia Seychelles Sierra Leone Singapore Slovakia Slovenia Solomon Islands Somalia South Africa  
**South Korea** South Sudan Spain **Sri Lanka** Sudan Suriname Sweden Switzerland Syria Taiwan **Tajikistan** **Tanzania** Thailand The Bahamas Timor-Leste Togo **Tonga** Trinidad and Tobago **Tunisia** Turkey Turkmenistan  
 Tuvalu UAE Uganda Ukraine United Kingdom Uruguay USA Uzbekistan Vanuatu Vatican City Venezuela Vietnam Western Sahara Yemen **Zambia** **Zimbabwe**





Narratives and patterns  
Why do countries abolish,  
retain, or reinstate  
the death penalty



The process of abolishing the death penalty has not been entirely consistent and smooth, and some countries have even backtracked and decided to reintroduce the death penalty into their legislation. For example, Austria, the Philippines, Papua New Guinea, New Zealand, and some US states<sup>1</sup>. Other countries insist that abolition may be inappropriate or even harmful. How could crime be prevented in that case? What about historical and religious considerations? At first glance, it may seem that the legal systems under review are too different – they have different histories, cultures, and social orders – to be able to draw functional patterns.

In reality, however, it turns out that very different and distant countries can be remarkably similar. At the moment of abolition or reintroduction of the death penalty in their current context, there are as many similarities as there are differences. And it is the former that we are particularly interested in when analysing the situation and prospects for a return to the death penalty in Russia. When the reader turns to this part of our study, they will find familiar rationales, premises, and assumptions, which in themselves will allow us to draw initial conclusions.

In this chapter, we discuss how countries think about the future of the death penalty and what needs to be taken into account when making predictions.

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<sup>1</sup> The United States is a federal republic with each state having its own laws.



## No variations. Almost all countries justify execution in the same way: sovereignty, public opinion, or deterrence

### Paragraph summary

*In effect, all countries, regardless of era and culture, use roughly the same arguments to maintain, abolish, or reintroduce the death penalty – in this respect, their differences are minor. Whether we are talking about Europe in the middle of the previous century or analysing the debates in Asian countries today, the range of possible justifications does not change.*

*However, the state's repeated arguments can be interpreted in different ways. Similarly, the counter-arguments of the opposition, civil society, and academics are not much different. It is remarkable how different stakeholders adopt the same premises but arrive at very different conclusions. Without attempting to evaluate the rationality and viability of some of the arguments, we summarise below the main narratives of states that support or condemn the death penalty.*

### Sovereignty, identity, and opposition to external values

Japan and Singapore argue that the death penalty is an internal matter for each nation<sup>1</sup>, which does not concern other countries and cannot be influenced by the positions of international organisations, even if a global majority supports them. This argument is based on the principle of sovereignty – the inadmissibility of interference in a state's internal affairs and the right of each country to determine its own policy on a wide range of issues. This argument is characteristic of countries that actively carry out executions and has emerged as a response to the rising global trend towards abolition. The greater the pressure from neighbours and partners, the louder the calls to protect sovereignty. Abolitionist countries perceive the call for the repeal of the death penalty as an attempt by other states to impose their will on them, which leads to resentment.

In contrast, opponents of the death penalty argue that the state, to which citizens delegate some of their rights, has no right to take a person's life and execute them. If a person does not have the right to kill his fellow human beings, neither does the state<sup>2</sup>.

The thesis of autonomy of choice may be closely related to, or even derived from, the particularities of a country's political structure and history. And the demand for non-interference in internal affairs may even have different meanings within a single country. This

<sup>1</sup> CCPR, the national report of Japan, 2008, 2012, 2017, 2022; Statement of China in 2007 on the resolution for a world-wide moratorium on death sentences and executions; 2008; Capital Punishment in Singapore: A Critical Analysis of State Justifications From 2004 to 2018, p. 143–144.

<sup>2</sup> Beccaria C. On Crimes and Punishments.



argument in favour of capital punishment is evident in the USA<sup>1</sup>, for example. The country is commonly considered to have been founded in 1776, when the thirteen colonies of Great Britain signed the Declaration of Independence. The most recent state to join the USA was Hawaii in 1959. Each new state had its own level of economic development, political culture, social structure, and traditions. This influenced criminal justice institutions, laws, and practices. Even today, states have a high degree of autonomy and their own criminal codes<sup>2</sup>. They determine for themselves, without input from others, which crimes are punishable by the death penalty in their jurisdictions, if at all, and they determine the method of execution.

Most states use lethal injection as the most "humane" method of execution, but there are some exceptions. South Carolina primarily uses the electric chair. Alabama **recently tested** nitrogen hypoxia, and three other states—Louisiana, Mississippi, and Oklahoma—allow its use. In this large country, each entity is free to make critical decisions for itself.

In addition to the concept of sovereignty and appeals to autonomy, there is inevitably a value component, the focus of which is also a matter of independent choice by each state. And we have heard more and more about this in recent years. Singapore is a clear example of this. Among other things, the death penalty for drug smuggling is inevitable in this country<sup>3</sup>, something that is actively criticised by the international community. Under international law, drug-related crimes do not qualify as "capital crimes"<sup>4</sup> for which the death penalty can be imposed, but Singapore continues to uphold and apply the death penalty, in part by invoking the confrontation between "Western and Asian values".

For example, in 2016, the Minister for Law and Home Affairs, Mr Kasiviswanathan Shanmugam<sup>5</sup>, **told** the UN General Assembly that he wanted his country to be "drug-free". Singapore's approach differs markedly from that of Western countries where certain substances are being legalised and where, according to Singaporean politicians, a drug-free world is not possible. Despite criticism from the international community, executions have continued in the country.

On 26 April 2023, Singaporean Tangaraju Suppiah **was hanged** for trafficking 1kg of cannabis, and on 28 July of the same year, a woman, Saridevi bint Jamani, became the **first woman to be executed** in Singapore for a similar crime in two decades. In total, **at least 19 people** have been executed in Singapore for drug offences since March 2022. The United Nations has condemned

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<sup>1</sup> CAT, the national **report of** the USA, 2016

<sup>2</sup> Capital punishment **in American history**.

<sup>3</sup> In some countries, the death penalty is a mandatory punishment for certain crimes. This means that judges cannot take into account the circumstances of the crime or the defendant's personality before passing sentence.

<sup>4</sup> General comment N° 36, **CCPR**, para. 35.

<sup>5</sup> Minister of Domestic Affairs (2015–present) and Minister of Law of Singapore (2008–present). Previously served as Minister of Foreign Affairs.



the executions and called on the country to impose a moratorium. But Singapore is pressing ahead. The last reported execution **took place** in August 2024.

### **Appeal to the people: the State represents the people and acts in their interests**

In the US states that continue the practice of execution, there is an assumption that the death penalty is a decision made by a democratically elected government that expresses the will of the people<sup>1</sup>. This approach stems primarily from the political traditions of the United States and a particular reverence for the historically established system in which citizens are the conventional focus of decision-making. States argue that it is simply unacceptable to impose anything else within the framework of democracy. This argument differs from the previous one in that the position on implementation is not based on the right to make a decision independent of external factors, but on a mandate from the people.

A similar argument has been used successfully in Malaysia<sup>2</sup> and Pakistan. The latter resumed executions after a six-year official moratorium, also because of a 'political consensus based on the will of the people'<sup>3</sup>. Malaysia has also used this argument to maintain the death penalty, but has had an **official moratorium** since 2018.

However, appeals to the power and importance of representation are not the exclusive domain of capital punishment advocates; they can also be used by those who wish to abolish the death penalty. The United Kingdom is a case in point. **According to** the sponsor of the 1965 Abolition Bill, Sidney Silverman MP<sup>4</sup>, 'a democratic government, although responsible to the electorate, must act as it sees fit, in accordance with its conscience, or it may lose votes or even an election.'

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<sup>1</sup> CAT, the national **report** of the USA, 2016.

<sup>2</sup> UPR, **Report** on the working group on Malaysia, 2009.

<sup>3</sup> CCPR, the national **report** of Pakistan, 2016.

<sup>44</sup> British Labour politician and staunch opponent of the death penalty.



## Executions are necessary as a deterrent

The logic of states when deciding on the use of the death penalty often boils down to its preventive effect and the desire to curb crime. Politicians believe that criminals fear death more than any other punishment because of its finality and irrevocability<sup>1</sup>, and that if a person knows that they will pay with their life for what they have done, they will never commit a crime.

Supporters of the death penalty believe that its abolition will encourage criminals to commit crimes because they will know that not only will they not be hanged, but that they will be "taken care of" in prison and provided with an acceptable standard of living<sup>2</sup>. Execution, states believe, reduces crime in general as well as specific crimes – murder, terrorism, or drug trafficking – and helps protect the population. Singapore, for example, believes that the death penalty is the only way to make the city-state a safe place to live and work and a drug-free zone<sup>3</sup>.

Malaysia has also used the same approach – execution – to deter drug trafficking. After gaining independence from Britain in 1957, the country underwent a period of economic reform and is believed to have become a central hub for drug trafficking. As part of the "war on drugs", the government added the death penalty to the penalties for drug offences, and in the 1960s, the death penalty became mandatory. The prevalence of drugs, **it was believed**, could undermine national development and encourage violence. The official state rationale for maintaining the death penalty during this period was again a policy of deterrence: to set an example for others, to punish the criminal, and, it was argued, to protect the public<sup>4</sup>. This position remained in discourse at least until 1996, when the country's prime minister, Mahathir Mohamad, justified the death penalty for drug offences by the need **to reduce** the number of drug traffickers, **comparing them** to murderers. However, there is **a view** that the state's practice of the death penalty was a way of demonstrating its position to a Muslim electorate concerned about the spread of drugs among young people.

It should be remembered, however, that this type of quasi-criminological rhetoric is based on assumptions of individual speakers and is often political and legal populism, since there is no credible evidence to date that the death penalty has a beneficial effect on crime rates. This is what international **organisations**, **academics**, and **individual lawyers** claim, even in countries where there is no consensus on the need to carry out executions. And the statistics available to us partly confirm the thesis that there is no correlation between executions and crime levels.

For example, Singapore introduced the mandatory death penalty for drug offences in 1975 as a "necessary deterrent to drug traffickers and pushers"<sup>5</sup>, but before 1975, the number of such

<sup>1</sup> Capital Punishment **in Singapore**: A Critical Analysis of State Justifications From 2004 to 2018, p. 138.

<sup>2</sup> Perkasa **urges** Putrajaya to keep death penalty, anti-sedition law, 2018.

<sup>3</sup> Capital Punishment in Singapore: A Critical Analysis of State Justifications From 2004 to 2018.

<sup>4</sup> Chang Liang Sang & Ors v Public Prosecutor [1982] 2 MLJ 231.

<sup>5</sup> Ibid.



offences was barely in the dozens, while from 1976 to 2005, the number of drug offences recorded annually in the country did not fall below 3000 cases<sup>1</sup>.

Another illustration of the failure of capital punishment to discourage crime can be found in Russia, where the number of intentional homicides per 100,000 population has dropped more than threefold in the years since the moratorium was introduced in 1998<sup>2</sup>. Lawmakers in Kazakhstan **saw** a similar drop in crime: as they debated a bill to abolish the death penalty, studies were reviewed that actually disproved that the death penalty had any effect on crime rates.

It was argued that the number of intentional homicides in the country was two or three times higher before the moratorium went into effect. When discussing similar bills in France, New Zealand, and the United Kingdom, similar arguments were made.

### ***Panem et circenses, or the decision to execute is based on public sentiment***

Popular support is another common argument for retaining or reintroducing the death penalty. The logic used by states is that the death penalty cannot be abolished without the consent of the people. In this case, the authorities refer not to the political system, not to the trust placed in decision-makers, but to specific polling results – and it does not matter who conducts them or what methods are used to measure them. What matters is that the numbers sound convincing. But while Japan conducts regular opinion polls<sup>3</sup>, Belarus, for example, cites as its main argument the results of a referendum held 28 years ago<sup>4</sup> in which the death penalty received unambiguous support from the population. Malaysia and the Maldives have stated<sup>5</sup> that it is impossible to abolish the death penalty without clear popular support. China, when it introduced the death penalty, also found that society was ready and supportive of execution (whatever that means)<sup>6</sup>.

Remarkably, references to opinion polls are popular only in states that intend to retain the death penalty, expand its use, or return to it. Countries that have decided to abolish them, on the other hand, often ignore the opinion of their population. In France, for example, in the year of the abolition of the death penalty, no less than 60% of citizens **were in favour** of keeping it.

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<sup>1</sup> Ibid.

<sup>2</sup> According to the UN **statistics on** intentional homicide.

<sup>3</sup> Poll **Reveals** More than 80% Support Death Penalty in Japan, 2020.

<sup>4</sup> CAT, the national **report** of Belarus, 2021.

<sup>5</sup> Nazri: People still want capital punishment, **2011**, The Maldives' Compliance with The Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment Suggested List of Issues Prior to Reporting Relating to the Death Penalty, **2022**.

<sup>6</sup> China, General Assembly official **records**, 63rd session : 70th plenary meeting, Thursday, 18 December 2008.



## Appeals to international law are used in very different ways by supporters and opponents of capital punishment

Humanist ideas, as expressed in abolitionist discourse, have often found their practical application in international law. In the second half of the previous century, the notion of the supreme value of the human being took shape in those norms that, at the supranational level, not only proclaimed the right to life in the abstract, but also established guarantees for its protection, including through countries' accession to international obligations. Two bloody world wars have contributed to this, demonstrating the fragility and vulnerability of human life.

The right to life has become a fundamental human right, without which all other rights cannot be exercised. Turkey, Kazakhstan, France, South Korea, and the Maldives have openly expressed their commitment to the norms and values of international law in this context. However, for those countries that started the process of abolition or abolished the death penalty earlier than the 1960s (New Zealand, United Kingdom), this reasoning is not typical: the right to life was first documented in 1948, when the Universal Declaration of Human Rights was adopted, and the trend towards abolishing the death penalty in connection with the right to life did not emerge until the 1960s, when the [UN Report](#) on the Universal Declaration of Human Rights was published.

However, some countries are still convinced that the death penalty is permissible because it is not literally prohibited by international law, and there is no uniform agreement among countries on the (un)legality of such punishment. The countries most likely to make this claim are those that have not ratified key international human rights treaties. Despite numerous UN votes condemning the death penalty<sup>1</sup>, no fundamental international legal document contains a specific prohibition of capital punishment<sup>2</sup>.

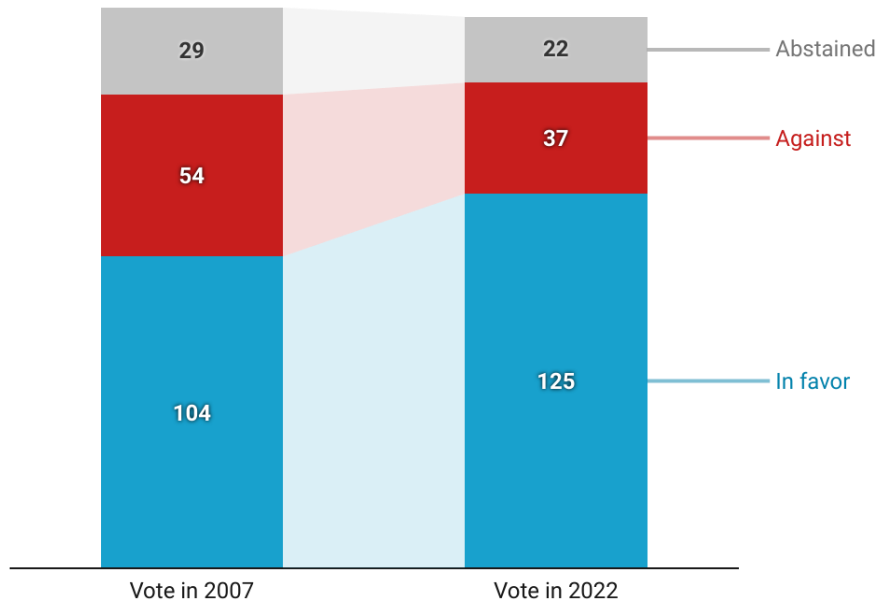
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<sup>1</sup> As of 2024, the UN officially has 193 member states.

<sup>2</sup> At the same time, the obligation to abolish the death penalty may be laid down in protocols to international legal instruments. If a country accedes to such protocols, they become binding for it (Protocol No 2 to the International Covenant on Civil and Political Rights, Protocols No. 6 and 13 to the European Convention on Human Rights, Protocol to the American Convention on Human Rights to Abolish the Death Penalty). However, countries are not obliged to accede to the basic acts, and signing a basic act does not always oblige countries to sign a protocol.



### UN member states voting on a resolution on a universal moratorium on the death penalty



When discussing a universal ban on executions, the most common point made by countries is that the International Covenant on Civil and Political Rights<sup>1</sup>, a fundamental human rights treaty signed by more than 170 countries, does not explicitly ban the death penalty<sup>2</sup>. Article 6(2) states:

"In countries which have not abolished the death penalty, it 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 [...]. This penalty may be carried out only in execution of a final judgment pronounced by a competent court".

The 'most serious crimes' in this wording cover only premeditated murder. However, countries party to the Covenant impose the death penalty for a wide range of crimes. In [Belarus](#), for an act of terrorism or treason; in the [American states](#) of Georgia and Missouri, for hijacking a plane; in [Pakistan](#), for perjury or undressing a woman in public. And the international community, by virtue of the principles of international law, has no influence over these practices by individual nations.

<sup>1</sup> An international treaty aimed at protecting civil and political rights. The Covenant was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 23 March 1976. As of July 2024, 173 States have acceded to it.

<sup>2</sup> See, e.g., China, General Assembly official [records](#), 63rd session : 70th plenary meeting, Thursday, 18 December 2008.



Often, the argument that there is no international consensus is used by countries that argue about the importance of preserving sovereignty and the need to uphold their own values without regard to others – thereby reinforcing their public position on maintaining the death penalty.

Some countries go beyond criticising international law and cite the experience of other nations in expanding the use of the death penalty. For example, Belarus **justified** its decision to expand the death penalty for attempted terrorism in 2022 by citing positive examples of executions in other countries. In 1981, supporters of the death penalty in France **argued** that its abolition made sense because other major powers such as the USSR, the United States and Turkey had retained it.

### **The work of the judiciary unwittingly becomes an argument in favor of execution**

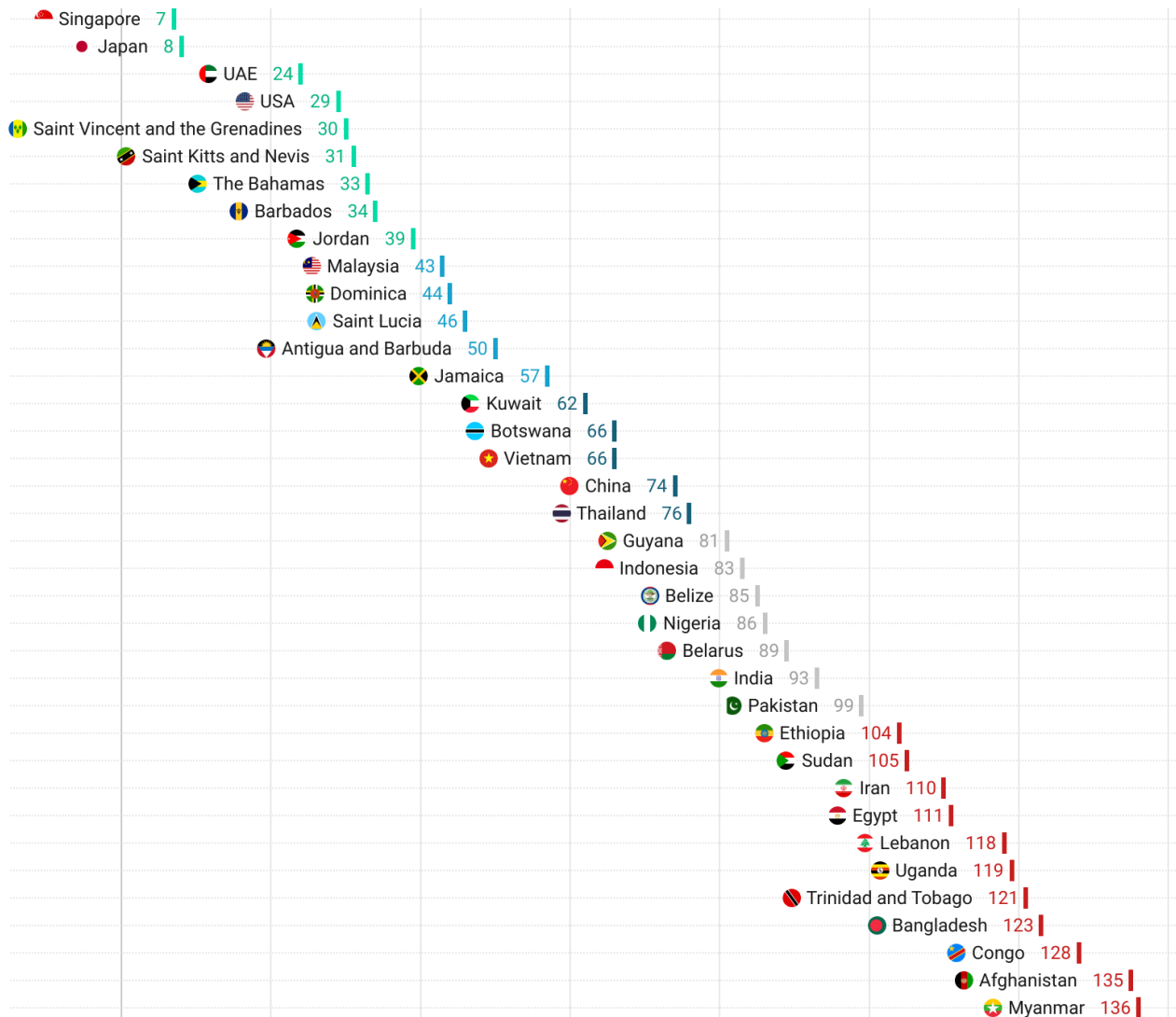
The most common argument used by opponents of the death penalty is that the human factor in criminal justice always carries the risk of deadly error. A wrong decision can cost a person their life and is irreversible. For example, the complete abolition of the death penalty in the UK was made possible by two notable cases: Timothy Evans and Derek Bentley. Timothy Evans was wrongly accused of murdering his wife and daughter and executed in 1950, when in fact they had been killed by his necrophiliac neighbour John Christie. Timothy Evans was posthumously rehabilitated in 1966. In 1953, Derek Bentley, a man with severe mental impairment, was accused of inciting the murder of a police officer and was executed. The officer was actually shot dead by Bentley's 16-year-old accomplice after Bentley allegedly ordered him to open fire. Bentley claimed that he did not command the shooting of the officer; this was the account given by police officers involved in the arrest. Bentley was later exonerated, also posthumously, in 1998. The states of Maine and Wisconsin have also abolished the death penalty after questions **were raised** about a defendant's guilt. Practice shows that even the most developed states cannot provide guarantees against irreversible errors.

However, it is precisely this thesis – about the quality of work of the courts – that proponents of execution turn into a counterargument, proving that their country's justice system is trustworthy and that the guarantees available to the accused minimise the risk of a miscarriage of justice to virtually zero. However, independent research data does not always support this argument, and the death penalty is mostly used by countries that lack a reputation for quality justice. Only two of the 53 countries that apply the death penalty are among the top 20 countries with the least questionable criminal justice systems. The important fact, however, is that in countries where executions are carried out, politicians have no doubts that the justice system is operating properly.



## Position of countries that use the death penalty in global rankings of the quality of criminal justice

*World Justice Project* ranking – based on an assessment of the sufficiency of government resources for investigations, the competence and non-corruption of prosecutors and police, and the total pool of suspects with sufficient capacity to mount an effective defence. As of 2024, 143 countries (including 38 of the 53 that continue to use the death penalty) are included in the ranking



Simultaneously, in countries that apply the death penalty, the quality of the courts' performance is often used not just as an argument in favour of the death penalty, but also to legitimise the death penalty itself. It is as if the obligation to justify its existence is shifted from the legislature to the judiciary, thus removing any responsibility from politicians. Legal positions and decisions of the highest courts provide additional arguments in the debate with opponents of the death penalty.



In Japan, for example, the Supreme Court **ruled** in 1948 that the death penalty was not cruel and unusual punishment and did not violate the Japanese constitution. The Court stated that it could prevent social evil. And since the common good must come before the good of the individual, the death penalty promotes the common good.

In 1963, when the death penalty was still on the books in Turkey, the Constitutional Court **justified** its existence on the basis of Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)<sup>1</sup>, which protects the right to life and explicitly allows the death penalty in exceptional cases. At the time, there was no consensus on the inadmissibility of the death penalty among the countries party to the Convention, and the question of its continuation was more pressing. To date, Turkey, a member of the Council of Europe, has abolished the death penalty in its criminal legislation.

In Malaysia, in 1982, a court **justified** the death penalty for drug offences by the need not only to punish the offender but also to send a warning to others, to emphasise the gravity of the crime, to express public disapproval and to protect society.

It is worth noting, however, that there are also occasions when courts have steered clear of political issues and confined themselves to legal matters. This was the case, for example, with judges in Singapore: "If any changes are to be made in relation to [...] the death penalty, they should be made by Parliament and not by the Court under the guise of constitutional interpretation," said a 2010 **decision**.

### Is the death penalty expensive?

In the discourse surrounding capital punishment, proponents and opponents of the death penalty frequently engage in deliberations concerning the relative financial implications of executing a convicted individual as opposed to lifelong imprisonment. This discourse involves meticulous calculations of the fiscal implications of various forms of punishment on the nation's budget. Supporters of the death penalty contend that the financial burden is reduced by the elimination of expenditures associated with the maintenance, sustenance and care of the prisoner. According to their rationale, the issue of superfluous expenditure is effectively addressed by a single bullet.

However, **the operational costs of maintaining death row are not insignificant**. According to the *Death Penalty Center* project calculations, the death penalty **is more expensive** than life imprisonment, particularly when considering the extended periods of time that condemned prisoners remain in custody awaiting execution. The state incurs significant expenses in maintaining

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<sup>1</sup> The International Treaty of the Council of Europe, to which 46 States are currently parties.



prisoners who may face the death penalty, as many defendants lack the financial resources to retain counsel in cases that could result in the ultimate penalty. Consequently, the state is compelled to provide legal representation, which further adds to the already substantial financial burden. Furthermore, trials in such cases often involve a jury, lawyers, and expert witnesses, and take much longer, which also affects the cost of the process from the moment a suspect is found until the death penalty is carried out. Death row inmates are held in special facilities, often in solitary confinement, which requires special conditions. Financial considerations are often one of the reasons for abolishing executions. The exorbitant cost of maintaining executioners **was** a contributing factor in the abolition of the death penalty in France, and Papua New Guinea abolished the death penalty for the second time due to the lack of "basic infrastructure" for its implementation. The country **was unable** to select an appropriate method of execution, purchase an execution chamber, or train staff.

### **Justice v. humanism: the relationship between satisfaction and the negative aspects of execution**

When it comes to executions after high-profile and violent crimes, the argument is often made about the pain of the victim and the need to compensate for their loss, at least by the perception that justice has been done. Such an argument is on the fringes of the legal realm and inevitably raises questions about what justice is, whether it is possible to achieve it, by which methods, and how not to cross the fine line between reasonable satisfaction and outright revenge. When we punish a murderer with death, are we not simply perpetuating a new cycle of violence? Is legalised murder fair to society and to the murderer's family? The list of questions goes on and on. The debate continues today, and there is no clear answer to the question of ultimate justice and lesser evil.

In some countries and cultures, however, justice takes on a slightly different connotation, sometimes disturbingly resembling retribution. In 2019, for example, then-Attorney General William Barr<sup>1</sup> announced the resumption of federal executions<sup>2</sup> in the United States after a hiatus of nearly 20 years, **justifying** the need for the death penalty precisely on the grounds of justice.

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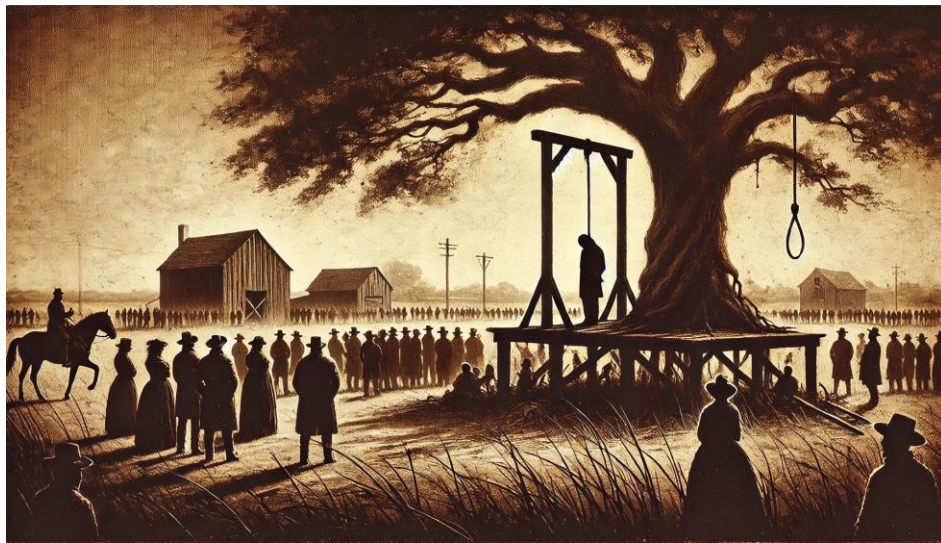
<sup>1</sup> Attorney General of the United States 1991-1993 and 2019-2020, a member of the Republican Party.

<sup>2</sup> The United States has a two-tier system of criminal law: some offences are regulated at the national level, while others are governed by the laws of individual states. The federal government may seek death sentences for a limited set of crimes, but federal executions occur much less frequently than executions at the state level. At present, there are 40 inmates on federal death row, most of whom are held at the Terre Haute prison in Indiana. In the modern era, 16 federal executions have been carried out — all by lethal injection; 13 of these took place between July 2020 and January 2021.



In the United States, victims, or, more commonly, relatives of victims, have the right to speak in court and, in a break from strictly procedural testimony, to relate how they have been affected by the loss of a loved one. Their words can have a significant impact on judges and juries.

Some theorists believe that Americans' desire for justice and the importance of considering victims' wishes are rooted in history, values, and specific cultural traditions<sup>1</sup>. One such tradition is the practice of vigilante justice, or lynching<sup>2</sup>. The most recent such case was officially recorded in 1981<sup>3</sup>. This type of massacre is characterised by members of dominant groups considering that killing is a privilege and a duty. Vigilantes placed the interests of the community and the individual above the prerogative of the government.



Lynch Trials.  
Illustration generated  
by ChatGPT

It was not until 2022 that lynching **was recognised** as a federal crime, but US human rights organisations **believe** that since it was outlawed, lynching has developed covert forms with the victims' position always tacitly taking precedence over the rights of the convicted. This, in part, introduces new elements into the concept of justice that many fail to understand, and may explain the nature of American public support for capital punishment.

An ethical counterpoint to the argument about justice can be the thesis of the supreme value of human life and the political and moral basis for legalised murder – this is the argument that opponents of the death penalty invariably invoke when arguing for its abolition. They appeal to the

<sup>1</sup> Zimring, Franklin E. The contradictions of American capital punishment. Oxford : Oxford University Press, 2023.

<sup>2</sup> The unlawful killing of a person by a mob, usually by hanging, without trial, often for purposes of punishment or intimidation. Historically, lynchings have been used to establish racial hierarchies, especially in the United States, against African Americans.

<sup>3</sup> In 1981, in Mobile, Alabama, *United Klans of America* members Henry Hayes and James Knowles murdered 19-year-old African American Michael Donald by hanging him from a tree. This is believed to have been revenge for the jury trial of Josephus Andresen, who was also African American: he was accused killing a white police officer. In his case, the jury, made up of blacks and whites, failed several times to reach a unanimous verdict.



ideas of the Enlightenment and, following Beccaria, affirm that the state has no right to take someone's life. Beccaria's ideas have spread throughout the world. These ideas have a cultural dimension: Voltaire, Victor Hugo, Albert Camus and Michel Foucault, among others, have at various times discussed the legality, humanity and necessity of capital punishment. They criticised the death penalty as an inhumane and ineffective method of punishment, seeing it as a tool of brutal violence and social control that did not prevent crime or rehabilitate criminals. Politicians invoked the principles of humanism and quoted great men in order to abolish the death penalty in Britain and France.

Sometimes debates about morality take on very practical dimensions. In the middle of the previous century, **the case of Ruth Ellis** was widely debated in Britain. She was a young woman whose background and lifestyle were considered reprehensible at the time: divorced, with children, having extramarital affairs and working at a nightclub. She was executed in 1955 for the murder of her lover, with whom she had an exhausting and, as we would describe it today, toxic relationship. In one of the episodes of their relationship, Ellis said that her partner had abused her and even induced a miscarriage. Unlike the cases of Timothy Evans and Derek Bentley, the woman did commit murder, but her case sparked widespread debate about the proportionality of punishment and the ethical acceptability of execution in modern society – people even gathered signatures to support her – and subsequently provided the grounds for a moratorium. Ellis was the last woman executed in British history.



Daily Mirror cover, 14 July 1955



Another interesting argument for abolishing the death penalty is the impact of execution on those who carry it out. Is it not the case that we are taking the lives of some at the expense of the well-being of others? Can we seek satisfaction and justice by making other citizens executioners, and not just those who pull the trigger or administer the lethal injection? It is worth noting, however, that this argument is far less common in debates about the death penalty than the one we present in this chapter. It was raised by New Zealand and the United Kingdom when they abolished the death penalty.

In her book on the abolition of the death penalty in New Zealand in 1961, Pauline Engel **provides evidence** of the impact of the death penalty on those involved. 'Old school' (older) officers involved in carrying out executions saw hanging as part of their duties, which they claimed, although unpleasant, did not have a profound effect on them. One character in the book described himself as part of a generation that had lived through the Great Depression, the Second World War and concentration camps, which "hardened the spirit as well as the flesh". According to Engel, their main characteristic was also that they did not feel responsible for the decision they made, but saw it as their professional duty. In other words, an ordinary person would likely have felt disgusted at having participated in an execution.

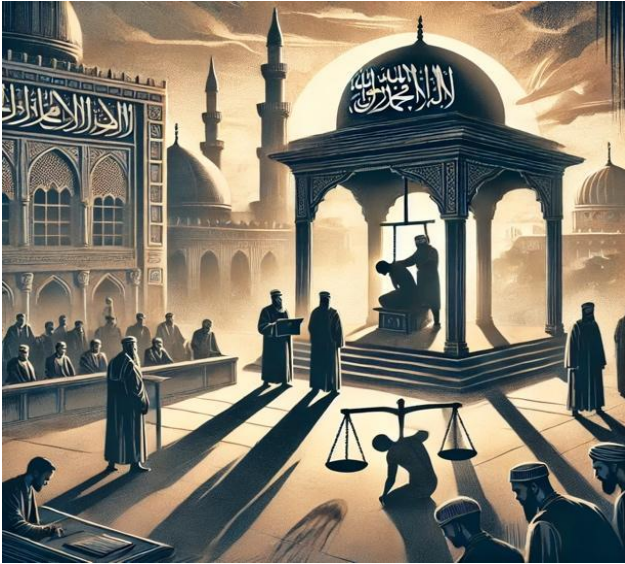
At the same time, Engel emphasises that the sheriffs, the prison psychologist, the chaplain and the warden, who were indirectly involved in the execution process, experienced severe emotional distress. Two sheriffs who participated in the executions had nervous breakdowns, the prison doctor threatened to resign rather than participate in the executions, and the prison psychologist described his feelings as "disgust". The chaplain, on the other hand, spoke of wanting to "get away from the prison" after the executions. The governor of Mount Eden Prison was present at eight executions. Although he was considered a rough man, he began drinking to cope with the shock of what he had seen and subsequently suffered a severe mental breakdown.

### **Culture, history and religion cannot be ignored**

Some societies implicitly attribute a historical dimension to capital punishment and its support, such as the United States. But some countries explicitly justify execution on the basis of cultural, religious and other particularities. In Japan, for example, there is the concept of *shinde wabiru* ('atonement by death') – rooted in samurai traditions – whereby a person might accept death to express deep remorse, to take responsibility for what they have done, or to restore honour after committing a serious offence. The cultural background seems to justify and clarify a particular attitude towards death, which is not seen as a punishment or a penalty, but as a normal and ethical consequence of a transgression. The responsibility is shifted from society, which must execute, to the criminal, who must accept death.



It is also normal in Japanese culture to obey the law without question, and in some cases, according to some sources, there is no alternative to execution. There is a view that life imprisonment may completely **destroy** a prisoner's personality and that the lack of execution **would not meet** the prisoner's expectations and would even disturb them.



Some countries are characterised by a system of retributive justice – "an eye for an eye" – and this is largely attributable to the religious nature of these society. For example, the sources of law in many non-secular Muslim countries are holy texts. Some religious scholars believe that the abolition of the death penalty may violate the provisions of the Sunnah and the Koran. For example, the Moroccan authorities **have openly stated** that it is impossible to abolish the death penalty because of adherence to the *lex talionis*<sup>1</sup> enshrined in the Holy Scriptures.

There are three categories of laws in Sharia law – *Qisas*<sup>2</sup>, *Hudud*<sup>3</sup>, and *Ta'zir*<sup>4</sup> – the violation of which can result in the death penalty. *Qisas* offenses involve retribution – and most often, the killing of the offender. *Qisas* laws, for example, serve **as the basis** of executions in Afghanistan. However, the possibility of abolishing or applying the death penalty in this case has much to do with the interpretation of the sources of Islamic law, which should not be forgotten.

In countries with predominantly Christian populations, references to religion in determining the fate of the death penalty are much less frequent, but they do occur – and they are interpreted in very different ways. For example, in Papua New Guinea, where more than 95% of the population belongs to Christian denominations, proponents of the reinstatement of the death penalty in 1991 **cited** the

<sup>1</sup> The law of retribution, whereby punishment resembles in nature and degree the offense committed.

<sup>2</sup> *Qisas* laws (Arabic for "retribution") are based on the principle of *lex talionis* and regulate serious crimes such as murder and serious cases of intentional bodily harm.

<sup>3</sup> *Hudud* Laws (Arabic for "crimes against God") – their violation is punishable by a predetermined or mandatory penalty prescribed by the Shariah for a specific act. Considered the most serious crimes in Sharia law, there are six in total: adultery and fornication, apostasy, "waging war against God and society" or robbery/gangsterism, theft, drinking alcohol, and slander/defamation (falsely accusing someone of any of these). The first three are punishable by death.

<sup>4</sup> *Ta'zir* laws (Arabic for "prohibition") are offenses for which the Qur'an does not prescribe punishment. They are considered less serious than those stipulated by *Hudud*. *Ta'zir* offenses are divided into four groups: (1) acts that do not qualify for *Hudud* or *Qisas*, such as attempted adultery; (2) crimes that are normally punishable by *Hudud* but involve extenuating circumstances or doubt; (3) acts that are condemned by the Qur'an and Sunnah or contrary to the public welfare but are not covered by *Hudud* or *Qisas*, such as false testimony; and (4) acts that violate social norms, such as indecent behavior. In fact, *Ta'zir* regulates the requirements of the state or society. The death penalty for such offenses is discretionary.



Bible as one of the arguments "in favor," which is a very rare way of interpreting the main book of Christians. In contrast, other countries – the Philippines, New Zealand, Great Britain and France – found in the Bible that the death penalty is unacceptable. Their interpretation is that human life is a God-given right, which means that He, and He alone, can decide on the question of death.

Buddhist countries are less likely to refer to religion when discussing execution – but such references are occasionally found in the Japanese discourse, for example, where the religious beliefs of one of the Justice Ministers, Megumi Sato, were seen by some as the reason for an unofficial moratorium on the death penalty between 1989 and 1993. He **refused** to authorize executions based on religious beliefs – the minister was a follower of the *Jōdo Shinshū* (from the Japanese "*True Pure Land School*") Buddhist sect.

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In analysing the political and public discourse on the need for the death penalty, we must remember that there is usually a wide gap between words and actions. We know that even when individual cultural narratives are considered, the range of arguments for and against the death penalty hardly differs between countries. One side appeals to attempts to curb crime, invoke history and manipulate opinion polls, while their opponents criticise legal mechanisms and appeal to humanity.

But whatever the justifications given by countries for the existence of the death penalty, for us the rhetoric is not of greater importance than a useful reference point: knowing what is important to society and politicians at the verbal level allows us to check whether these arguments actually have a real impact on the fate of capital punishment in a particular country. Is it true that the abolition or reintroduction of the death penalty is influenced by the political context? Or that public opinion has a real impact on legislation? Or are there other patterns that lead a country to reinstate the death penalty? And if the rhetoric is the same everywhere, does that mean that all states follow the same algorithm when it comes to execution?

With these questions in mind, we move on.



## The political structure and the state's attitude toward execution are closely interrelated

### Paragraph summary

*By assessing the combination of 1) the political characteristics of the state, 2) the stability of the regime, and 3) the prevailing public and political sentiment, it is possible to predict the status of the death penalty in the country and its future prospects.*

*For example, stable autocracies and conservative democracies are more likely to retain the death penalty. Conversely, democracies dominated by liberal values and active politics often introduce moratoria or abolish the death penalty altogether – the more stable the regime, the lower the likelihood of backsliding. Countries that can be classified as totalitarian dictatorships either introduce the death penalty or expand its use. A change from a totalitarian or authoritarian regime to a democratic one is usually accompanied by the abolition of the death penalty, partly as a symbol of opposition to the old regime. And vice versa.*

As our analysis shows, **the political structure of a state can directly influence a country's attitude to the death penalty**. China – a one-party autocracy<sup>1</sup> where the Communists have ruled since 1949 – has never announced a moratorium. The situation is similar in authoritarian Belarus. Most autocracies tend to maintain the death penalty at least at the level of a moratorium – and return to its use, or talk about its return when politically convenient.

In Japan, where a single party, the Liberal Democratic Party (LDP)<sup>2</sup>, has ruled for many years, no moratorium has ever been officially announced. Although Japan is considered a full democracy and a parliamentary monarchy, the ruling LDP has traditionally held conservative views. Attitudes towards the death penalty and the period of unofficial moratorium may be driven by political considerations and attempts to change the dominant ideology. For example, Democratic Party Justice Minister Chiba Keiko, an abolitionist, called for the establishment of a special commission to investigate the practice of imposing and carrying out this type of punishment. Between 2010 and 2012 – just as the LDP lost its parliamentary majority to the Democrats – the appointed committee met ten times, but predictably concluded that there were strong arguments for and against the death penalty and that it was inappropriate to draw definitive conclusions about its ultimate fate. There wasn't enough time for the Democrats to make changes. After the LDP returned to power,

<sup>1</sup> Hereinafter, in describing the characteristics of the regime, we rely on the 2018 *Polity V* rating, which gives countries a democracy index on a scale of -10 to +10. To learn more about the *Polity* project and its methodology, as well as to download datasets, please visit [the website](#) of its organizers.

<sup>2</sup> Has had a majority in Parliament since 1955 (except for the 2009–2012 period when the Democratic Party came to power).



this commission never met again – and there was no change in the prevailing discourse, nor was the death penalty abolished.

In fact, the transition from one political regime to another (usually from authoritarian to democratic) often leads to the abolition of the death penalty, as happened in the Philippines in 1987, when the death penalty was abolished as part of a policy of "restorative justice" after the fall of the Ferdinand Marcos regime<sup>1</sup>. According to the latest *Polity* measurements, the country has made a major political leap and is now classified as a democracy. At the time of abolition, Nepal had transitioned to multi-party politics and had a Democracy Index score of 5 out of 10 (7 points higher than before abolition).

However, the death penalty can be used as a tool of political repression and geopolitical pressure, which is why its retention is often associated with totalitarian and autocratic countries and justified as a means of maintaining power. In China in 2019, Canadian citizen Robert Schellenberg **is thought** to have had his 15-year sentence for drug distribution converted to the death penalty because Canada detained the CFO of telecommunications giant Huawei in December 2018 at the request of the United States.



Executions in the 1980s following the military coup in Turkey. *ChatGPT illustration*

In Turkey, the death penalty was justified by Article 2 of the European Convention<sup>2</sup>, as mentioned above, but in practice, it was used after military coups to eliminate political opponents. After the 1960 coup, Turkish Prime Minister Adnan Menderes was arrested on the orders of the secret committee organised by top officers under the leadership of General Cemal Gürsel. He was later tried by a military tribunal and executed. The foreign and finance ministers were executed alongside him. After another military coup in 1971, led by Chief of General Staff Memduh Taghmac, more executions took place. In the late 1960s and early 1970s, student movements were popular in the

<sup>1</sup> Philippine statesman and politician, 10th President of the Philippines (1965–1986). During his presidency, from 1972 to 1986, martial law was in effect, and the constitution was suspended.

<sup>2</sup> Decision Nos. 1963/207, 1963/175 of 1 July 1963.



country. Among the founders of one of these was Deniz Gezmiş, a leader of a revolutionary student movement inspired by the ideas of Marxism–Leninism and the possibility of establishing a socialist state. Fighting radical movements became the policy of the new government. In 1980, another military coup led by Chief of General Staff Kenan Evren resulted in the execution of 50 people, 27 of whom were executed for political offences. In 2004, Turkey abolished the death penalty for all crimes, and at the time of its abolition, the country scored as high as it ever had on the democracy scale<sup>1</sup>.

New Zealand's history also **demonstrates** that the death penalty is closely associated with a change in the ruling party and the government. In 1949, when the Conservatives defeated the Labour Party, they reinstated the death penalty for premeditated murder for a few years after it had been abolished – such a rollback was an explicit part of the politicians' election manifesto, and when they came to power, they made good on their promise. In 1961, however, the Labour Party, once back in power, abolished the death penalty again. In the Philippines, the reintroduction of the death penalty had much to do with the initiatives of the military, on which the future President Fidel Ramos<sup>2</sup> relied, and of which he was a member. When he became president in 1993, he fulfilled a campaign promise and reinstated the death penalty.

Left-wing parties often advocate the abolition of the death penalty. In Britain and France, the authors of the bills were ardent abolitionists and were able to eliminate the death penalty in their countries. In Britain, the leader of the anti-death penalty movement was Sidney Silverman, a Labour member of the British Parliament, and in France, Robert Badinter, Minister of Justice for the French Socialist Party.

In South Korea, the personal political views of President Kim Dae-jung (1998–2003) **are believed** to have been the precursor to the abolition of the death penalty. His stance may have been influenced by personal experience. Kim was imprisoned and sentenced to death in 1980 for inciting a popular uprising in Gwangju that year, in which the military killed hundreds of demonstrators. Thanks to US intervention, his sentence was commuted to 20 years' imprisonment, and he was later deported to the United States. During his presidency, Kim did not sign any death sentences and commuted the sentences of 18 prisoners to life in prison. President Roh Moo-hyun (2003–2008) was a human rights lawyer who represented political prisoners and was himself involved in the June 1987 Movement; no one was executed during his rule – the trend towards liberalisation and humanisation continued.

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<sup>1</sup> In *Polity*'s rankings from 1993 to 2011, Turkey had a score of 8–9 out of a possible 10.

<sup>2</sup> Philippine statesman, 12th President of the Philippines (1992–1998).



## A change in the status of execution in a country is preceded by strong perturbations: these can be wars or political crises

### Paragraph summary

*Countries do not simply bring back the death penalty. This requires certain prerequisite conditions, most often significant social, economic, and/or political changes. This can include any event that affects life in the state: decolonization, crime spike, economic downturn, geopolitical conflicts, radical shift in power that does not lead to democracy, etc.*

We know from the previous paragraph that **significant events (e.g., military coups) open new – sometimes quite dark – pages in the history of the death penalty** in a given country. But they are not the only events that can throw a country into crisis.



Papua New Guinea (PNG) still has tribal communities, and its people speak more than 800 languages. Some parts of the country are inhospitable and virtually inaccessible. On top of these inherent problems, the country abolished the death penalty in 1974 and reintroduced it in 1991. The abolition was preceded by a civil war (or 'Bougainville conflict'): the official government of Papua New Guinea and armed groups from the

The Bougainville conflict through the eyes of *ChatGPT*  
 island of Bougainville fought over a mine that was considered to be of benefit only to the official government and foreign investors. The locals did not benefit economically from the mine at all.

In addition to the political confrontation, there was a severe crime problem: gangs of uneducated and unemployed youths (*rascal gangs*) were active in all the country's major urban centres, with rape, robbery, and murder commonplace. In October 1991, the country was to host the Pacific Games, and the government had to provide security for 2,000 participants from 16 countries and visitors, allowing the authorities to revive talk that the reinstatement of executions would deter crime. However, despite military reinforcements from Australia and increased budgets for police equipment, the country never became entirely safe. Reintroducing the death penalty for murder

<sup>1</sup> The armed conflict in the Bougainville region in eastern Papua New Guinea, between 1988 and 1998, was fought between the Papua New Guinea Defence Force and the Bougainville Revolutionary Army led by Francis Ona.



was a symbolic step that Papua New Guinea government could make to show the public how seriously the authorities were taking the law and order crisis.

In Nepal, mounting pressure against the panchayat<sup>1</sup> regime led to the reintroduction of the death penalty. The country first abolished the death penalty for common crimes<sup>2</sup> in 1946. Thirty-nine years after it was formally abolished, in 1985, during the crackdown on the democratic movement, it was reinstated: some murders were made punishable by death; in the same year, a series of bombings of government buildings led to the addition of terrorism to the list of capital offences.

It should be noted, however, that the new legislation punishing common crimes has never been put into practice, although executions for political or war crimes have continued in Nepal. The last three of these took place in the 1960s and 1970s. Nepal abolished the death penalty for all crimes in 1990, after the fall of the panchayat regime during its transition to a democracy (confirming the thesis outlined above: radical democratisation of a country usually leads to the abolition of the death penalty).

The period of independence – which can also refer to times of crisis, moments of self-determination, and significant turbulence in social relations – also provides a setting in which debates about the necessity of the death penalty can take place. For example, in newly independent countries, the death penalty is likely to be a means of deterrence and security, which would justify its retention. If a country adopts a moratorium, it will usually be much later.

This was the case in Malaysia, which became independent from Britain in 1957. For several years, groups within the country had fought for independence from British rule, and once it was achieved, inter-ethnic conflict broke out between them. In these circumstances, there was obviously no reason to abolish the death penalty; the country's first concern was its security and internal stability. Once again, the discourse on the deterrent effect of the death penalty comes to the fore. As we know, the country justified the need for executions on the grounds of the increase in drug-related crime and the need to combat it.

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<sup>1</sup> Political system in South Asia, typical of India, Pakistan, Bangladesh, Sri Lanka, Trinidad and Tobago, and Nepal. Often characterized by caste and the privileged upper classes.

<sup>2</sup> In this text, we distinguish between common crimes, which can be defined as fraud, theft, murder, and other "mass-scale" and common crimes, and other politicized offences (war crimes, offences for undermining the political or state system, etc.). For example, the term "common crime" in English law is usually applied to the offenses that are most frequently encountered in the criminal justice system (theft, assault, burglary, robbery, fraud, and drug offenses).





Decolonization through the eyes of ChatGPT



## Countries that have recently abolished the death penalty are at risk

### Paragraph summary

*The abolition of the death penalty is rarely immediate and irrevocable – countries usually start with a moratorium, and the first years after abolition are very turbulent. The more time that elapses since abolition or a moratorium, the greater the likelihood that the death penalty will no longer be part of a state's criminal practice, no matter how it is legislated.*

*Yes, lawmakers' policies can backfire, but the good news is that by abolishing executions once, the state will either reduce executions to isolated cases or merely keep them on the books.*

We have analysed the history of several countries that have reintroduced the death penalty after abolishing it. The analysis indicates that **reinstatement is more likely when the moratorium or legislative ban on the death penalty is relatively recent**. The median return period is about 9 years. After that, a return to execution becomes unlikely. The United States reinstated the death penalty 4 years after formal abolition, the Philippines 6 years, New Zealand 9 years, Morocco 10 years, and Papua New Guinea 17 years. Only Nepal deviates from the general pattern – it reinstated the death penalty for premeditated murder 39 years after formal abolition, an extraordinary and atypical period of time.

### A moratorium on executions or partial abolition precedes complete abolition, but at the same time, incomplete or gradual abolition carries risks of reintroduction

In general, abolition does not happen overnight. A country may gradually reduce the number of crimes for which the death penalty is imposed and then impose a total moratorium or ban on executions. This is necessary to habituate society, public opinion, and even politicians themselves to the fact that the death penalty will be abolished in the future.

Once an official or unofficial moratorium has been in place for a sufficient period of time, a country can declare the death penalty formally abolished for ordinary crimes. And then, under favourable conditions, executions will only exist for war crimes or in cases of exceptional circumstances. The latter is currently the case in Latin American countries such as Brazil and Chile. These countries are considered partial abolitionists. But therein lies the danger: **this situation leaves countries with a certain leeway**, because in the right cases and under certain circumstances, the authorities and the judiciary can apply the death penalty even after it has been partially abolished.



But subsequently, as history shows, the country commonly completely abolishes the death penalty. Such a conventional path is characteristic, for example, of the United Kingdom, which first introduced a five-year moratorium on executions in 1965. The abolition of the death penalty for common crimes took place in 1969, and for all crimes in 1998. Kazakhstan also followed the classic path: after almost 20 years of moratorium, the death penalty was abolished for all crimes. At the same time, a country can maintain a moratorium permanently, as the Maldives has done for some 70 years, without excluding the death penalty from its legal framework. But the fact remains that in most cases a moratorium acts as a safeguard for the future.

Even if a country has regressed and reverted to executions, **the authorities will continue to move away from the death penalty over time**. For example, after a six-year moratorium, New Zealand abolished the death penalty for ordinary crimes in 1941, then reinstated it in 1950, resulting in the execution of several people. However, the death penalty was partially abolished again in 1961 and completely abolished in 1989.

Nepal had a 15-year moratorium before abolishing the death penalty for ordinary crimes in 1946 (retaining the possibility of execution for treason or attempt on the life of the king). Although the country reinstated the death penalty in 1985 (also for common crimes), it finally abolished it for all crimes in 1990.

### **Even if the death penalty is reinstated, countries are likely to abolish it again**

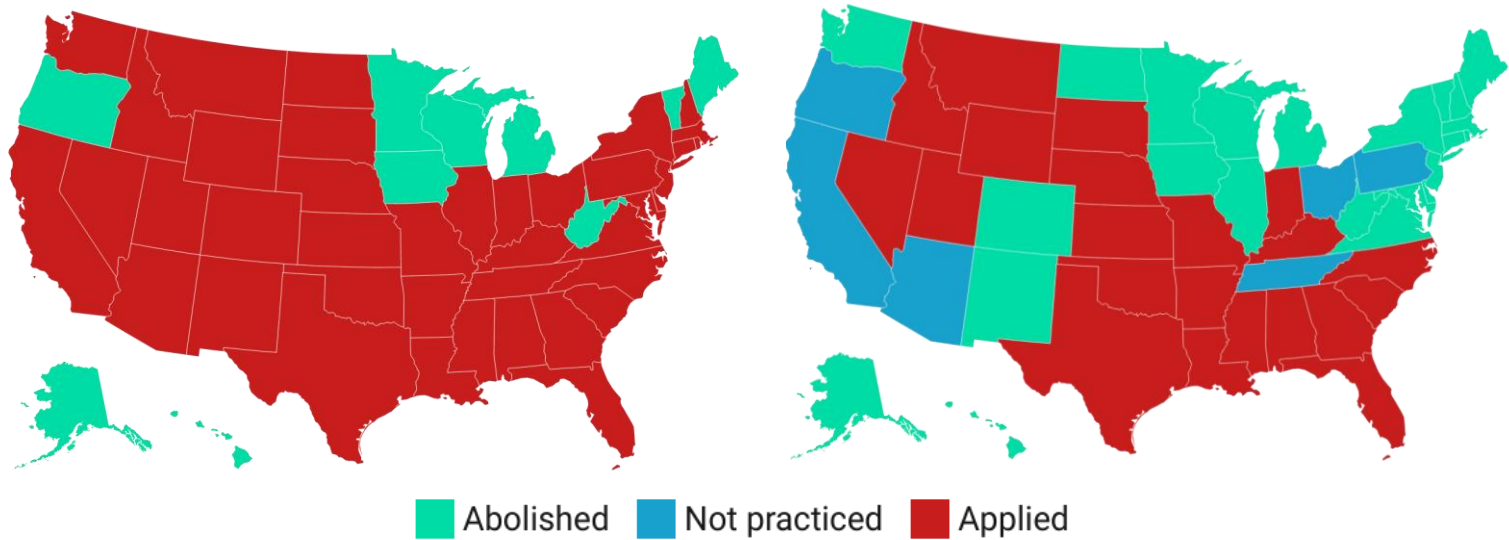
Almost all countries eventually decided to abolish the death penalty several years after reinstating it. The United States is a striking example: after a four-year period in which the death penalty was declared unconstitutional and not applied (1972-1976), less than half of the states returned to the practice of executing criminals. By 2024, 23 out of 50 states **had formally abolished** the death penalty, and a further six states had imposed moratoria. By comparison, in 1972 (before the Supreme Court's *Furman v. Georgia* decision banning executions), only one-fifth of states had no executions – the temporary federal ban was the impetus for states to rethink their attitudes to capital punishment. A federal moratorium on executions also applies in the United States since 2021.



### Death penalty in the United States by state

1971

2024



### The return of the death penalty after its abolition does not mean that it will be enforced in practice

In most cases, countries that have not carried out the death penalty for a long time, or have abolished it, **do not use it in practice** when it is reintroduced, and the countries that decide to carry out executions not only do so less frequently than before, but also progressively reduce the number of executions.

Papua New Guinea abolished the death penalty in 1954, but not for premeditated murder until 20 years later. Even after the reintroduction of executions for this common crime in 1991, the country never executed anyone and finally abolished the punishment in 2022. The bottom line is that there have been no executions in PNG for nearly 70 years, and no matter the situation with moratoria and abolition, established practice has proven stronger than legislative tinkering. In Nepal, the death penalty for premeditated murder was reinstated in 1985 – 39 years after formal abolition – but no executions have ever been carried out again.

In contrast, New Zealand, Morocco, and the Philippines carried out executions after the law was reinstated. Statistics show that **the number of executions is significantly lower after reinstatement than before abolition**. The United States is moving in the same direction.

New Zealand officially abolished the death penalty for premeditated murder in 1941, but reinstated it nine years later. Between 1950 and 1960, only eight death sentences were carried out in the



country. After that, the practice of executing murderers was banned again, and in 1989, the death penalty was definitely abolished from the country's criminal code.



This is how ChatGPT envisioned the last execution in Morocco

Morocco did not apply the death penalty between 1982 and 1993, until the death sentence was imposed on the Casablanca police chief, Mustapha Thabet. He was accused of corruption, raping between 518 and 1,600 women, according to various sources, and selling pornography abroad. Newspapers wrote that Thabet's indictment was the result of his possessing blackmail material on Moroccan politicians. It is believed to be 'the first time that a high-ranking police officer has been arrested and prosecuted for his crimes' and that 'this crime has shaken the foundations of Moroccan society'. Even after the terrorist attacks

in Casablanca a decade later, Morocco did not use the death penalty. Since then, the country has maintained a *de facto* moratorium and has never returned to the death penalty, although the legal possibility still exists. In comparison, the country executed 53 people between 1954 and 1982. Morocco has maintained a *de facto* moratorium for over 30 years.

In the six years between abolition and the resumption of executions in the Philippines (from 1987 to 1993), the country executed seven people, compared with 52 between 1946 and the original abolition. In 2006, the government completely abolished the death penalty.

In the United States, the number of executions has generally declined since the death penalty was declared unconstitutional. Most executions since 1976 have taken place in the South (Texas and Oklahoma together carried out more than a third of all US executions in 1976). In comparison, between 1936 and 1972, Georgia, California, New York, North Carolina, and Texas carried out the most executions. The latter remains one of the leaders in the total number of executions, both before and after the 1972 US Supreme Court decision: 236 people from 1936 to 1972 and 588 from 1976 to the present. At the same time, Texas's practices are very different from the patterns evident in other states that have resumed executions and in the US's neighbours.

While 227 executions were documented in California between 1936 and 1972, the number dropped to 13 after 1976, with the last one being carried out in 2006. Similarly, North Carolina carried out 201 executions between 1936 and 1972, and 43 after the reintroduction of the death penalty. The last execution took place in 2006.

New York used the death penalty 236 times between 1936 and 1972, but even after its reinstatement, the state never executed anyone, and in 2007 it was struck from the law altogether.



## The greater the influence of international law and supranational human rights institutions, the lower the chance that the death penalty will remain

### Paragraph summary

*A state's membership in international organizations and the availability of recourse to supranational and regional human rights institutions most often leads it to abandon the practice of the death penalty. However, states that do not recognize any supranational jurisdiction either retain executions in law or carry them out in practice.*

The abolition of the death penalty or the imposition of a moratorium is closely related to a state's desire to become a member of some international organisation or to engage in international cooperation. This practice is typical, for example, for countries seeking membership in the Council of Europe: in 1979, the organisation required its members to abolish this form of punishment from national legislation. Not everyone took this step overnight. France, which had carried out executions until 1977, did not change its legislation until 1981. International pressure was the main factor in its abolition. Turkey, by then a member of the Council of Europe, maintained a moratorium between 1973 and 1980. It then resumed executions following a military coup, but kept a moratorium unchanged from 1984 until it abolished the death penalty in 2004. Subsequently, new members of the Council of Europe were required to sign **an ECHR protocol** banning the death penalty upon accession.

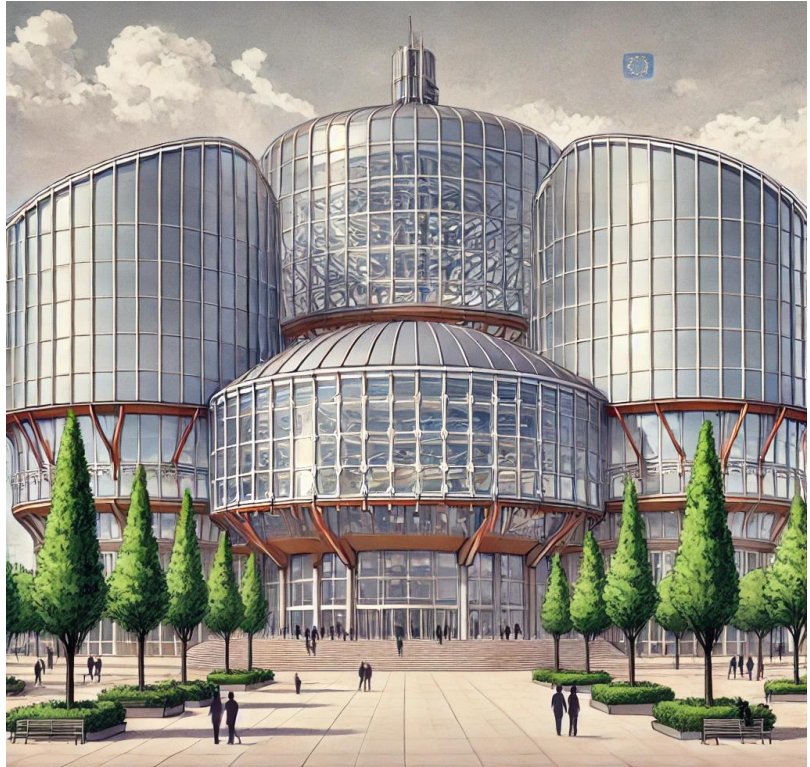
Politicians in South Korea, which has had a permanent moratorium on the death penalty since 1997, **believe** that the return of the death penalty to the country could complicate the country's relations with the European Union (EU)<sup>1</sup>. Kazakhstan's relations with the EU were also one of the reasons for the abolition of the death penalty in that country.

As a general rule, countries that are party to international treaties – the Covenant on Civil and Political Rights, the Convention against Torture, and the like – are less likely to retain the death penalty than countries that are not party to such treaties. International bodies responsible for interpreting the provisions of international instruments often consider the death penalty to be a violation of the right to life and an execution to be a violation of the right to freedom from torture. An example of this is the decision of the European Court of Human Rights in the case of *Soering v. UK*, which ruled that a long wait for execution on death row may violate a person's right to freedom from torture, which may not be derogated under any circumstances.

<sup>1</sup> The European Union is an economic and political union of 27 European states.



State recognition of the jurisdiction of supranational human rights mechanisms plays an essential role in the decision to abolish the death penalty. It is no coincidence that Asian states are the most common on the list of countries that use the death penalty: in other parts of the world, institutions such as the European and Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights are well established.



There is no consolidated regional system of human rights protection in Asia, and countries in this part of the world are generally less likely to accede to international treaties. At the same time, Belarus, which retains the death penalty, is not a signatory to the European Convention on Human Rights and is therefore not subject to the jurisdiction of the ECHR. The United States, although a signatory to the American Convention on Human Rights, **has not ratified** it and has not given the Inter-American Court of Human Rights the right to hear cases against it.



## Public opinion does not influence the decision to abolish or bring back the death penalty (with a caveat)

### Paragraph summary

*As much as states invoke public opinion polls when deciding whether to retain, reinstate, or abolish the death penalty, in reality, the results are likely to have no bearing on the final decision of the authorities.*

*But if public opinion influences the fate of capital punishment at all, it is not through polls but through the practical actions of civil society managing to lobby for its views.*

If a country continues to apply the death penalty, public opinion polls – if they are conducted<sup>1</sup> – will generally show support for such practices. Polls may be conducted by the state or by independent institutions, and the figures may vary slightly.

In the 1990s, for example, China repeatedly cited polls showing public opinion in favour of the death penalty, while citing political, cultural, economic, and social reasons for maintaining it. In the 2000s, Chinese politicians claimed that the public supported the death penalty and was psychologically ready to accept it<sup>2</sup>. However, China has never provided data from such surveys or explained what 'psychological readiness of society' means.

The most recent data we have suggests that Chinese people **support** the death penalty. Around the same time, when politicians were still vocal about the death penalty, China argued that the death penalty was not a human rights issue, but a criminal justice issue. Since the 2010s, however, things have changed.

In a study entitled "**(Not) Talking about Capital Punishment in the Xi Jinping Era**", the authors examined the nature and frequency of discussion of the death penalty in China during the current General Secretary's tenure. By analysing Chinese leaders' speeches, publications in Chinese newspapers, and academic articles, the authors found that, unlike his predecessors, Xi did not directly mention the death penalty in any of his 680 speeches. After the most recent shortening of the list of capital crimes, down from 55 to 46 in 2015, mentions of the punishment dropped to zero. In the 2024 Universal Periodic Review<sup>3</sup>, China did not even mention the death penalty in its report.

<sup>1</sup> In Pakistan, for example, no such surveys are conducted, making it impossible to speculate on Pakistani attitudes toward the death penalty.

<sup>2</sup> China, General Assembly official **records**, 63rd session : 70th plenary meeting, Thursday, 18 December 2008.

<sup>3</sup> The Universal Periodic Review (UPR) is a unique mechanism of the Human Rights Council that calls on all UN member states to undergo a peer review of the human rights situation every 4.5 years.



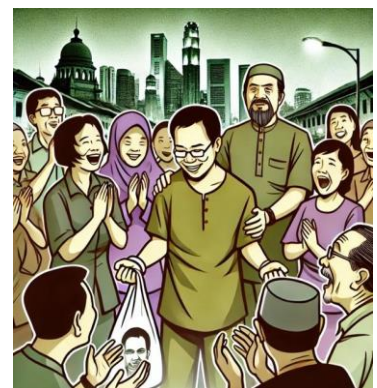
In general, however, it **would be incorrect** to suggest that public opinion can have a decisive impact on a state's actual ability or intention to abolish the death penalty. In 1966, for example, support for the death penalty in the United States was at its **lowest level** in history, at only 42%, while 47% of Americans were opposed to capital punishment. And this did not lead to the legislative abolition of the death penalty.

In France, on the other hand, the results of various opinion polls in the year of its abolition (1981) **showed** that 60% of the population supported the death penalty, but politicians made their own decisions. After the abolition of the death penalty, President François Mitterrand was re-elected for a second term, although some members of the French government suggested that this decision would have a negative impact on his prospects of re-election. It is also interesting to note that in France, members of the government rejected the possibility of resolving the death penalty issue by referendum: firstly, because this is constitutionally inadmissible, and secondly, because moral issues such as the death penalty should not be decided by referendum.

At the same time, we can clearly see that the retention, abolition, or reintroduction of the death penalty depends on the activities of independent human rights institutions, human rights organisations, victims' families, and church communities. Their activity is influenced by the political regime in the country and the presence/absence of high-profile cases leading to the death penalty. In countries where the death penalty has been abolished, there are disproportionately more abolitionist groups than in countries where the death penalty still exists.

In the Philippines, for example, human rights organisations and the Roman Catholic Church played a crucial role in the process of abolition following the *de facto* resumption of executions in 1999. Now, as calls for the reintroduction of the death penalty in the Philippines are being made and legislation introduced (**most recently** in May 2023), the Commission on Human Rights of the Philippines is actively opposing it<sup>1</sup>.

In Illinois (USA), many family members of victims **actively campaigned** for the abolition of the death penalty, and after an 11-year moratorium, they succeeded. In Malaysia, human rights groups' activism in the case of a young boy, Yong Wui Kong, not only moved the country towards a moratorium on the death penalty in 2018, but also indirectly influenced the fate of the death penalty in Singapore. The 19-year-old<sup>2</sup> Malaysian was arrested in Singapore in 2007 for drug trafficking and faced a mandatory death sentence.



<sup>1</sup> Philippine independent human rights organization formed in 1987. It implements public policy to protect human rights in the country. The powers of the organization are established in the current Philippine Constitution.

<sup>2</sup> The age of majority in Singapore is 21 years.



A 2010 campaign to save his life and commute his sentence gathered more than 109,346 signatures. It brought together members of the Bar Council, NGOs, and civil society organisations in a joint public action. Most importantly, members of the public came together to draft a petition for clemency, which was presented to the President of Singapore at the Istana<sup>1</sup>. Under pressure from the international community, Singapore relaxed the law, and the Malaysian's sentence was commuted to life imprisonment and 15 strokes of the cane.

At the same time, social movements and civil society institutions need the support of their compatriots if they are to have a real chance of influencing the fate of the death penalty in the country. If the population does not support such initiatives, their lobbying power is non-existent. In Japan, for example, NGOs, especially those opposed to the death penalty, seem to have no credibility when it comes to engaging with Japanese human rights policy. Their public support is minimal. The most prominent organisations opposing the death penalty in the country are the *Civil Liberties Union* and *Forum 90*. The involvement of the head of *Forum 90* in defending one of the accused in the 1995 Tokyo subway terrorist attack reportedly further reduced the popularity of the abolitionist movement. The case caused widespread public outrage, and the organisation received hundreds of threatening letters demanding that he be disqualified from arguing the case.

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<sup>1</sup> The official residence of the President of Singapore.



## The country's history as well as religion seem to matter for the death penalty

### Paragraph summary

*The abolition or retention of the death penalty often depends on the influences the country has been under, historical context, and the cultural foundations on which the society has been built, as is usually written about by death penalty scholars specializing in legal history research. Such influencing factors include colonial past, religion, and other cultural aspects.*

A significant number of countries **did not have autonomy at some stage in their history, and this is reflected in their legislation**, including criminal one. And often the changes provoked were positive. Once the process of abolishing the death penalty begun in the metropole, it immediately spread to the colonies. This is what happened in Papua New Guinea: in 1973, Australia, the country's colonial ruler, passed a law abolishing the death penalty, and a year later, the first abolition followed in PNG. The country gained independence from the metropole in 1975. The Australian Abolition of Capital Punishment Act extended the abolition of the death penalty not only to PNG, but also to the entire Commonwealth of Australia and its territories.

There is no death penalty in Macau and Hong Kong, Special Administrative Regions of China<sup>1</sup>. The United Kingdom had transferred Hong Kong, and Portugal had transferred Macau to Chinese administration after both countries abolished the death penalty in their own territories and territories under their administration. At the same time, some British colonies that later became independent retained the death penalty — Malaysia, Singapore, and Pakistan seceded from Britain before the UK stopped carrying out executions.

Some scholars attribute the retention of the death penalty in Japan to the fact that it was administered by the United States from the end of World War II until 1952. It is believed that in the post-World War II period, the US was determined to retain the death penalty for the Tokyo Tribunal<sup>2</sup> and the execution of war criminals. The practice of the death penalty in post-Soviet countries is

<sup>1</sup> Hong Kong and Macao are special administrative regions of China operating under the "one country, two systems" principle, which gives them considerable autonomy in governance until 2047 and 2049, respectively. Their status has been enshrined in international treaties – the Sino-British Joint Declaration for Hong Kong and the Sino-Portuguese Joint Declaration for Macau. At the end of the term, the agreements may be renegotiated.

<sup>2</sup> The International Military Tribunal for the Far East, or Tokyo Trial, was a trial of Japanese war criminals held in Tokyo from 3 May 1946 to 12 November 1948. A special judicial body was formed to conduct the trial, which included 11 states: the United States, China, Great Britain, Australia, Canada, France, the Netherlands, New Zealand, the USSR, India, and the Philippines.



probably related to the fact that certain territories that gained independence were part of the USSR, where executions were carried out.

Another aspect that determines the attitude towards execution in a country may be the culture or recent traditions that define the society's attitude towards certain institutions. We mentioned some of these in the chapter on arguments for and against the death penalty. In particular, we cited the example of American vigilantes, the memory of whom is seen by some researchers not only as a veiled argument in favour of maintaining the death penalty, but also as one of the actual reasons for its continued practice in the United States.

Researchers claim that lynching and the death penalty in America have a historic relationship that reflects social and racial tensions and, among other things, shaped the development of the legal system. Lynching was used as a form of informal capital punishment in the late nineteenth and early twentieth centuries. Cases of lynching bypassed the legal system when mobs, often motivated by racial prejudice, took the law into their own hands and committed murder without trial. Vigilantes generally believed they were restoring justice and protecting society. Probably in response to lynchings and criticism of the state's failure to protect citizens' rights, the American legal system decided to increase its use of capital punishment, thus bringing its enforcement into the legal realm.

The authorities sought to demonstrate to their citizens that the state was capable of punishing criminals justly on its own, thus reducing the need for vigilante justice. Both lynching and the death penalty in America were often racially motivated, and international bodies **note** that to this day, discrimination in the country has not been fully addressed. Lynchings were primarily targeted at African Americans, but even after their decline, blacks are more likely to end up on death row. There is a view that this constitutes ongoing discrimination and evidence of unequal treatment of citizens by the legal system. Some American organisations **believe** that lynching still takes place, but that it has become more covert.

Although it is not possible to state unequivocally that lynching has had a direct impact on the practice of capital punishment and states' attitudes towards it, statistics indicate that the US states where lynching was historically more common are still the most active in carrying out executions, especially in the South of the country, including Texas, Alabama and Georgia, which is where most death row inmates reside. The prevalence of right-to-self-defence laws in the US may also indicate the strength of pro-vigilante sentiment. These laws allow citizens to carry concealed weapons as a potential defence against crime. The stated purpose of such legislation is to encourage citizens to use guns as a means of self-defence against crime.

The tradition of lynching also appears to be strong in Papua New Guinea, which has seen several abolitions and reintroductions of the death penalty. In their case, the expansion of the list of crimes punishable by death has been influenced less by tradition than by culture, the remaining elements



of which could 'set society on fire'. There are still instances in this country where people are accused of witchcraft, primarily women who are considered "witches". When a woman is accused of witchcraft and blamed for the illness or death of a family member or friend, it can lead some people to seek revenge. In 2013, for example, villagers **burned** a 20-year-old woman alive, accusing her of witchcraft and the death of a child. This led to international outrage and an increase in the use of the death penalty in PNG. In April 2014, a group of more than 100 men launched a bloody raid on a neighbouring village in search of sorcerers and witches, **killing** six people, two of whom were children. It is worth noting, however, that Papua New Guinea decided to abolish the death penalty permanently two years ago.



Historical traditions of lynching in PNG as imagined by ChatGPT

There is some correlation between the dominant religion in a society (whether the state is secular or there is a diversity of faiths) and the state's attitude to the death penalty. In filling in our analytical table, looking for criteria that influence a state's decision on capital punishment, we found that **the majority of those that have abolished the death penalty are those with a predominantly Christian population** (predominantly Roman Catholic majorities), and the state itself is secular. We do not attempt to explain this pattern historically, but merely make an observation that is new to us and allow it to stand in the pages of this text.

Buddhist and Islamic countries tend to retain the death penalty. In most cases, countries claim that the Qur'an, the Muslim holy book, explicitly authorises the death penalty. According to the World Coalition Against the Death Penalty, many Muslim countries retain the death penalty based on Sharia law. The primary sources are the Qur'an and the Sunnah, which the authorities in Islamic countries use as a source of criminal law. It should be noted, however, that this interpretation largely depends on the school of thought to which the interpreter belongs, the method of interpretation, and the prevailing circumstances of the time and place.



## The death penalty and a country's high level of violence may be linked

### Paragraph summary

*The lower the level of violence in a country, the more likely it is that the government will either abandon the death penalty altogether or adopt a stable, ongoing moratorium (with some exceptions). If, on the other hand, we observe a high level of arbitrary violence in society and a high frequency of extrajudicial executions, the likelihood that a country will abandon the death penalty decreases.*

Countries where there is a high level of violence, both in society and at state level, are likely to be inclined to retain or reintroduce the death penalty. Examples include Belarus, where repression is widespread and the memory of the 2020 riots is still alive, or Turkey, which has actively used executions during military coups and the elimination of political opponents. Nor can the United States, where some states continue to carry out executions, claim to have a low crime rate and low levels of violence, including institutional violence.

However, this conclusion should be qualified: there are some examples where there is no evidence of high levels of violence (e.g., Japan or Singapore), yet countries retain the death penalty. It is also worth noting that other factors combine to influence a country's stance on the death penalty. However, the general pattern remains the same: the lower the overall level of violence in a country, the less likely it is to retain the death penalty, as evidenced by crime data in countries that have abolished the death penalty.

The practice of extrajudicial executions is also common in the Philippines, where the recent 'war on drugs' under President Rodrigo Duterte<sup>1</sup> illustrates high levels of violence.

The Philippine War on Drugs, or "War on Drugs," is an anti-drug campaign that began during the administration of President Rodrigo Duterte (2016– 2022). Drug trafficking has decreased, but official figures show that the campaign has claimed the lives of at least 6,000 people through extrajudicial killings. Human rights activists estimate that more than 20,000 civilians may have been killed in "anti-drug operations" by the government and its supporters up to 2022.

<sup>1</sup> President of the Philippines from 2016 to 2022.



## Level of economic development matters for the death penalty execution

### Paragraph summary

*Countries with a high level of economic development are significantly more likely to have adopted a moratorium or abolished the death penalty. Conversely, countries with low levels of economic development are, with a few exceptions, more likely to be on the list of countries that continue to use the death penalty. However, **this observation is not sufficiently strong to be considered a pattern**, as many economically underdeveloped countries have not used the death penalty for a long time.*

There is **a view** that the death penalty tends to be preserved in poor countries that cannot afford to keep those sentenced to life imprisonment. For example, Malaysian politicians **argued** a few years ago that "it is more expensive to feed a criminal in prison than to take his life" (although let's not forget that studies and facts tell a different story – we wrote about this above).

Countries that have abolished the death penalty completely or have had a moratorium for more than 10 consecutive years tend to be high-income or upper-middle-income countries. Lower-middle-income countries tend to retain (with a few exceptions, such as Japan, the United States, or Singapore) or reinstate the death penalty. New Zealand reinstated the death penalty in the 1950s, but this was at a different level of economic development than today.



## Is the death penalty dying out?

Instead of conclusions

International human rights institutions appear to have reached an unequivocal consensus: the death penalty is unacceptable, not just because human life is precious, but also because we now know precisely how execution affects the condemned, their executioners, and their families. Anything to do with legalised death cannot be considered humane or acceptable in any way. **Waiting for death is torture**; taking the life of a condemned person is an example of inhumane treatment of their relatives by the state.

In the United States, people **can wait** years or even decades for their sentences to be carried out. In Japan, no prisoner knows the exact day of their execution – they are informed of their impending death a few minutes before it takes place. And one could be waiting for decades. Japanese citizen Iwao Hakamada, for example, was wrongly accused of murdering a family of four in 1966. He spent more than 45 years on death row until he was released in 2014 after a court found that the evidence in his case had been fabricated. While on death row, he suffered a mental breakdown and **was diagnosed** with institutionalised psychosis. Hakamada **entered** the Guinness World Records as the person with the longest death row sentence in the world. Hakamada's sister fought for years to have him completely exonerated, and it was not until September 2024 that she finally **got her way**. Sentenced to death for murder, Sakae Menda spent 34 years on death row and was released in 1983 at the age of 57. He spent the rest of his life campaigning against the death penalty. Menda died in 2020. In 2023, a woman sentenced to death in 2009 for strangling two men **died** without ever receiving the death penalty, 13 years after her conviction. These are all examples of the terrible anguish caused by uncertainty and not knowing which day will be the last.

But it is not only the condemned who suffer – the families of those on death row are equally victims of legalised murder. In 2022, the UN Human Rights Committee **ruled** on the case of Tamara Selyun, a Belarusian mother of a man executed in 2014 for the murder of two people. The state did not inform the woman of the details of his impending execution, and after his execution, she was only given the clothes he wore as he waited to die in his cell. The uncertainty caused suffering and prevented relatives from effectively challenging judicial decisions. The UN Human Rights Committee stated that such actions constitute inhuman and cruel treatment of the condemned's family.

The world is gradually moving towards the complete abolition of the death penalty, a process that is slow but steady. We have every reason to believe that, globally, the death penalty is gradually becoming a thing of the past.





In Europe, the death penalty has been almost completely abolished; not a single country in the Council of Europe has retained the practice through abolition or a moratorium. The only exception is Belarus. African countries are moving in the same direction. In 2023, bills **were introduced** in Ghana's parliament to remove the death penalty from the Criminal and Other Offences Act of 1960 and the Armed Forces Act of 1962 – the amendments were later signed into law by the country's president. Zimbabwe and Kenya **have done the same**, and Liberia is considering similar legislation. Latin American countries have long since abolished the death penalty, although some formally retain executions for war crimes. Even in the United States, where executions still take place, the total number of executions has fallen dramatically since the Supreme Court decision and the temporary moratorium.

In the Asia-Pacific region, abolitionist countries are still in the minority, but there are some trends towards reducing or abolishing the death penalty. Malaysia introduced a moratorium in 2018 and **abolished** the mandatory death penalty altogether in 2023. In Pakistan, after lifting a six-year official moratorium on the death penalty and resuming executions following the Peshawar terrorist attack, the death penalty has not been carried out since 2019. Even in China, where a new drug control law, which includes the death penalty, **was passed** in 2018, there are positive steps that offer hope for, if not abolition, then a reduction in executions. While in 1997 the Chinese Criminal Law provided for execution for at least 68 crimes, by 2015 the list had shrunk to 46. The list of abolitions could go on.

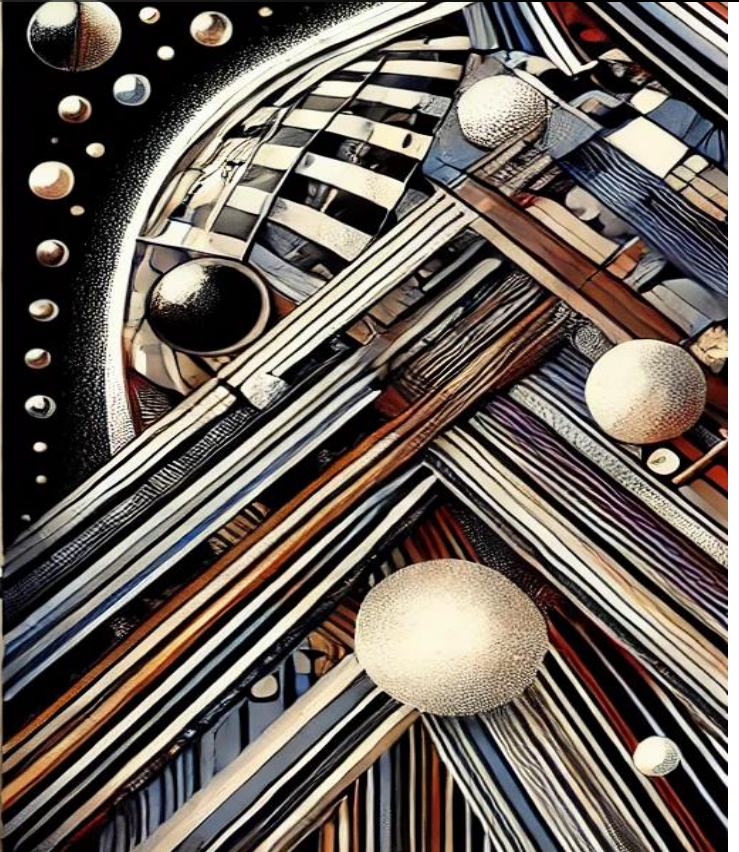
All these examples are encouraging and show that the global trend is towards widespread abolition of the death penalty, reflecting a growing recognition of human rights and symbolising a victory for the principles of humanity. The trends outlined in this chapter provide a clear understanding of how and why countries are moving away from the death penalty — and what is driving them to do so. All of this makes it possible to make predictions and speculate about when other countries will follow the path of the 'refuseniks' and 'returnees' when the time comes for them to debate the fate of the death penalty again.

And this is the prognosis we will try to make for Russia.





[II]  
Route recalculated?  
Where is Russia  
on the road to the revival  
of capital punishment





Since 1998, there has been an official moratorium on the death penalty in Russia, a change triggered by the country's accession to the Council of Europe and the organisation's commitment to abolishing the practice of capital punishment. Since then, the institution of the death penalty has seemingly faded into history, but in recent years, there has been increased speculation about a return to the sentencing and execution of capital offenders. This raises a logical question for scholars, human rights activists, and citizens: are politicians' statements speculation, or are we about to turn the page back to a time when executions were the order of the day? It is this question that prompted us to produce this document. Opinions on the prognosis are somewhat mixed: some believe that the death penalty is gone forever, while others draw up lists of circumstances in which it would be worthwhile to execute criminals. Some rely on the law, others on morality, others on the state's need to eradicate specific types of crime.

We take a different approach: after studying the death penalty in other countries and identifying the key factors that influence the decision to return to the death penalty, we will apply them to Russia and try to answer the question: how close is our country to lifting the moratorium?

#### Summary of the following three paragraphs

*Although Russia had inherited the death penalty provisions from Soviet criminal legislation, in the 1990s the country embarked on a path of deliberate and gradual abolition of the death penalty, both in law and in practice.*

*Only six years elapsed between the introduction of the first restrictive norm in the Constitution of the RSFSR and the moratorium. However, the process was as rapid as it was uneven: first, Russia reduced the number of "firing squad" statutes, continued to carry out several executions, and then, under the influence of the Council of Europe, the country abandoned the practice of execution altogether.*

*Although the legislation has not yet been brought into line with international standards – the history of Russian legislation is marked by lively parliamentary battles – the Constitutional Court of the Russian Federation put an end to the disputes over the applicability of this form of punishment in 2009: execution – although not legally removed from the Criminal Code – no longer has a role in the Russian legal system.*



## Legacy

The Russian Federation, which emerged on the geopolitical map of the world at the end of 1991, became the successor state of the USSR and inherited, among other things, its death penalty. Except for very short intermissions, the death penalty **was applied** throughout the entire Soviet period of the history of our country, with the list of "firing squad" crimes continually **shifting** over time.

Despite the fundamental collapse of the political and legal system and the active amendment of legislation, the process of liberalisation of national laws was not a single-step process, which is why in the first half of the 1990s in Russia, in many areas, including criminal law, a strong inertia of the Soviet structure remained. In the period after the collapse of the Soviet Union and until the mid-1990s, the criminal legislation of the RSFSR was in force in the Russian Federation, and the laws that were replaced by updated ones still bore a strong resemblance to the Soviet ones. Nevertheless, the paradigm shift was evident.



In 1992, the 1978 Constitution of the RSFSR, which was briefly in effect in post-Soviet Russia, **introduced** a provision that reflected the state's new attitude to the death penalty: "The state shall strive for the complete abolition of the death penalty. Pending its abolition, the death penalty may be applied as an exceptional measure of punishment for particularly grave crimes against the person only upon conviction by a jury". This was a significant breakthrough in the protection of human rights in the new country – and besides being a legal breakthrough, it was to some extent an ideological breakthrough.

In the new Constitution adopted in 1993 and still in force today, this norm **was slightly modified**. Still, its basic content and message remained the same – the path to abolishing the death penalty and to limit its application:" The death penalty may, until its abolition, be established by federal law as an exceptional punishment for particularly grave crimes against life, while granting the accused the right to a jury trial".



The main difference between the two norms was that the new Constitution did not allow execution for all serious crimes against the person (which included, for example, sexual crimes) as before, but only for crimes against life (which included, for example, murder). The provision on the state's desire to abolish the death penalty altogether has been removed in the new version, presumably as redundant. However, the condition of a jury trial has become a prerequisite for the application of the death penalty – the state can no longer make the decision on the death penalty on its own, it needs the "authorisation" of the people and the consent of several persons. This condition will be important later in this paper.

It should be noted, however, that criminal legislation and the practice of criminal prosecution in those years lagged behind the progressive provisions of the country's fundamental law. The RSFSR Criminal Code of 1960 continued to be applied throughout the adoption of the new Constitution and for several years thereafter, until the end of 1996. By the time it expired, it contained three dozen crimes punishable by death. More than half of these **were** military offences committed in war or combat conditions. In addition, the firing squad was prescribed as a punishment for treason, espionage, banditry, disorganising the work of penal labour institutions, hijacking an aircraft, certain types of murder and rape, etc.



During the same period, death sentences continued to be passed and carried out. However, researchers' data on this issue differ, sometimes quite significantly.

According to one source<sup>1</sup>, in 1992, 159 people were sentenced to death, of whom 18 were executed; in 1993, 157 people were sentenced to death, of whom 10 were executed; in 1994, 160 and 10 respectively were sentenced to death and executed; in 1995, 141 and 40; in 1996, 153 people were sentenced to death, but there is no official data on those executed<sup>2</sup>.

According to other data<sup>3</sup>, the number of persons sentenced to death and executed was as follows: in 1992 – 159 and 1; in 1993 – 153 and 4; in 1994 – 160 and 19; in 1995 – 143 and 86; in 1996 – 153 and 53.

## Pivot

1996 was a landmark year in the history of the death penalty in Russia – the events that took place this year represent a fragile fusion of new trends and seemingly eternal tendencies. In August, what **is believed** to be the last death sentence to date was carried out: serial killer Sergei Golovkin<sup>4</sup> was executed. Russia's president declared a *de facto* moratorium on the death penalty, and the country's parliament passed a new criminal code that retains capital punishment as a form of punishment.

The Criminal Code, which went into effect on 1 January 1997, and is still in effect, reiterates the constitutional norm that the death penalty is an exceptional form of punishment that can be imposed only for particularly grave crimes that violate life. The number of "firing squad" articles was reduced sixfold compared to the 1960 Criminal Code – only five of them remained. From now on, the death penalty could be imposed for aggravated murder, genocide, as well as attempts on the life of: a state or public figure; a person administering justice or preliminary investigation; a law enforcement officer. At the same time, the death penalty is not imposed on women, persons who committed a crime as minors, and men who have reached the age of 65 at the time of sentencing.

In the same year, a new Russian Criminal Enforcement Code was adopted, which **defines** the procedure for executions: death sentences must end with a private execution, carried out only on

<sup>1</sup> Kurs ugovnogo prava v pyati tomah. Tom 2. Obshchaya chast': Uchenie o nakazanii [Course of Criminal Law in five volumes. Volume 2. General part: doctrine of punishment] / Ed. N. F. Kuznetsova, I. M. Tyazhkova. Moscow: Zertsalo, 2002.

<sup>2</sup> According to the Chairman of the Presidential Pardon Commission, 63 death sentences were carried out in 1996.

<sup>3</sup> Kvashis V. E. Smertnaya kazn'. Mirovye tendencii, problemy i perspektivy [The Death Penalty. World trends, problems and prospects]. Moscow, Yurait, 2008.

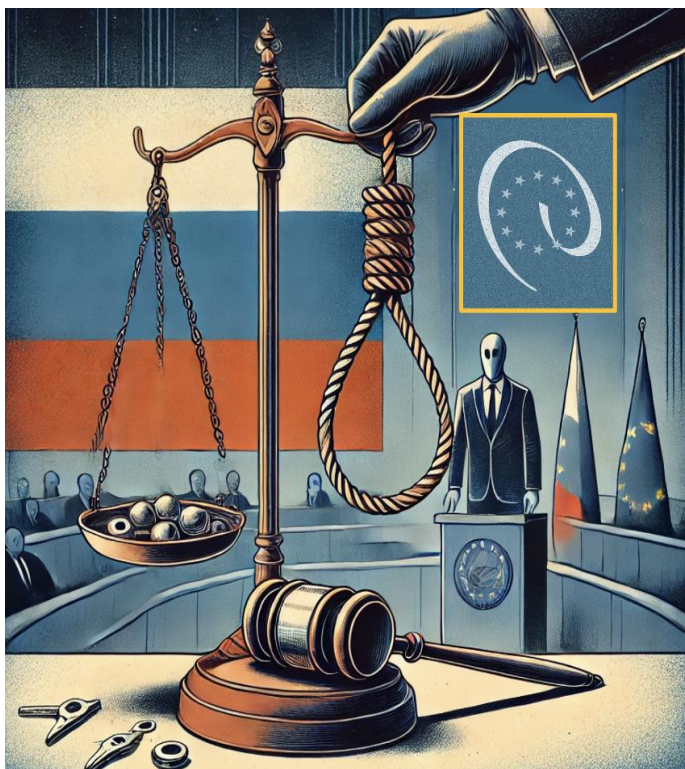
<sup>4</sup> A serial killer active during the 1980s and 1990s. He was proven responsible for 11 murders, with victims being boys aged between 10 and 16. The actual number of his victims is estimated to be around 40.



one condemned person, who must be kept in solitary confinement under strict security before the procedure. Relatives are not allowed to receive the body of the executed person, and the place of burial is not disclosed. The current Russian legislation does not provide any special rules for the imposition of the death penalty in times of war, martial law, and mobilization.

For several years after the new Criminal Code came into force, death sentences continued to be handed down, but none of them were carried out – the convicts were sent to special penal institutions for deprivation of liberty. In parallel with the rapid process of legislative change, in which the state chose the path of gradually abolishing the death penalty by significantly limiting its scope of application, another process was actively underway: integration into the international community. This process led to the introduction of a *de facto* moratorium on executions.

In May 1992, Russia applied for membership in the Council of Europe. Almost four years later, on 28 February 1996, our country became a member of this European intergovernmental organisation, after taking on several obligations. Some of them concerned the death penalty: Russia was obliged to introduce a moratorium on executions **immediately** upon joining the Council of Europe. It was also obliged to sign Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides for the abolition of the death penalty, within one year of accession to the Council of Europe, and its ratification within three years. There have been difficulties in implementing both commitments.



The Protocol No. 6 to the Convention was signed on 16 April 1997, i.e., one year after accession to the Council of Europe, but ratification has not occurred at all, not within three years, and not later. The draft law on ratification was submitted to the State Duma<sup>1</sup> in August 1999, but it was not taken up. The situation with the moratorium was even more complicated.

On 16 May 1996, the President of the Russian Federation issued **Decree** No. 724 "On Gradual Reduction of the Use of the Death Penalty in Connection with Russia's Accession to the Council of Europe". Formally, it did not introduce a ban on the use of the death penalty, but in theoretical Russian jurisprudence, this

<sup>1</sup> The lower house of the Russian parliament, the Federal Assembly, which consists of the State Duma and the Federation Council (the upper house).



document is often included in a set of norms prohibiting the actual implementation of the death penalty<sup>1</sup>. The essence of the decree has mostly been reduced to the need for further legislative work, including accession to Protocol No. 6 to the Convention mentioned above.

There is **a view** that the unofficial moratorium on the death penalty began on 2 August 1996 and comprised the President's approval of all petitions for clemency. Symbolically, the starting date of the moratorium coincides with the alleged date of execution of the last death sentence, against Sergei Golovkin.

The mechanism of a *de facto* moratorium might work differently from a blanket pardon. In December 1996, the RSFSR Prison Labour Code of 1970, then in force, was amended to include a section on the procedure for carrying out the death penalty. In particular, it contained a provision on the suspension of the execution of a death sentence "until the issue of the condemned person's pardon is resolved". At the same time, the legislation did not establish a time limit within which the President of the Russian Federation must decide on pardon (and pardon was and remains the exclusive right of the Head of State). Some experts saw this gap as a violation of the constitutional right of convicts to have their pardon application considered "within a reasonable time"<sup>2</sup>. However, it was precisely this combination of the rule of suspending the execution of the sentence with the absence of deadlines for considering pardon applications that ensured the effective implementation of the moratorium, as the President could simply postpone the decision to grant a pardon<sup>3</sup>.

At the same time, an attempt to introduce an official moratorium at the legislative level ended in a crushing defeat. In July 1996, a draft law on the introduction of a moratorium on executions **was submitted** to the State Duma. It was not discussed in a session of the lower house of parliament **until** March 1997. In the course of a highly emotional debate, all the main nodal points around which substantive disputes about the death penalty are structured throughout the world were touched upon: the impact of the death penalty on crime rates, public support, the aims and purposes of punishment for crimes committed, the right to life, the costs of miscarriages of justice, the fulfilment of international obligations – all the narratives and arguments with which we are so familiar were at work. But when it came to the vote, the moratorium bill was rejected by a majority.

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<sup>1</sup> Anatomiya raspada. Kak i pochemu prava cheloveka perestali byt' cennost'yu v sovremennoj Rossii [Anatomy of Decay. How and why human rights have ceased to be a value in modern Russia]. Nizhniy Novgorod: Crew Against Torture, 2024. P. 55.

<sup>2</sup> Melyokhin A. V. Sudebnaya vlast' Rossijskoj Federacii: kurs lekcij [Judicial power of the Russian Federation: a course of lectures] // SPS ConsultantPlus. 2012.

<sup>3</sup> The same **uncertainty remains** under the current system: pardon commissions have strict deadlines, but there is no legal limit to the time the President of the Russian Federation has to sign the petitions of convicts.



The entire drama of this parliamentary debate can be summed up in one long quote, which successfully summarises all the key elements around which the discussion was based. The last statement of the bill's co-author, deputy of State Duma Yuri Rybakov, **went** like this:

"The discussion that took place here today has clearly shown that for any reasonable person, if we don't talk about emotions, but about a reasonable assessment of this situation, the death penalty is obviously useless. It is futile because the victims killed by the criminal can never be brought back. It is futile because the suffering of the criminal's victims cannot be undone. It's futile because execution can't fix the criminal. But it is dangerous because the unjustly executed cannot be brought back to life. Yet society desires execution. A significant part of society wants it, at least half of society agrees with the death penalty, and even wants it. There are no rational explanations for this, because execution as a deterrent is no longer taken seriously by anyone. ....

The real motives for wanting the death penalty are irrational and primarily based on fear. Wishing death on someone who has violated order or tradition is a sacrifice on the altar of our fear. It is, if you like, a form of psychotherapy to relieve our stress. By killing the perpetrator, we try to kill the problem, or at least push it to the back of our minds. And that's the only point, if I may say so, of the death penalty. The futility, the illusory nature of overcoming the problem in this way, has long been understood by statesmen and society in civilised countries, which is why in Western Europe the state has not killed anyone for 30 years.

We promised to stop and then to abolish the death penalty, but for a year now, the government and the president have continued to kill, and so far, as far as I know, more than 60 people have been executed. God only knows how many of those were by mistake".

The second attempt to legislate for a moratorium did not come long afterwards; it **took place** less than a year later, in December 1997<sup>1</sup>. Unlike the first, it proposed a temporary moratorium of three years rather than a permanent one. Its fate was even more unenviable. It sat untouched for more than twenty years, until it was finally rejected in July 2018 on the grounds that it was redundant because the moratorium was already in place<sup>2</sup>. This time **there was no** debate, and no votes at all — neither for, against, nor abstaining.

<sup>1</sup> See: **Bill** No. 97803716-2 "On Moratorium on the Execution of the Death Penalty" / Legislative Support System.

<sup>2</sup> This refers to the moratorium actually imposed by the Constitutional Court of the Russian Federation, as discussed below.



The Council of Europe has not ignored the problems of Russia's compliance with the obligations it assumed when it joined the Council of Europe. In Report No. 8127 of 2 June 1998, the Monitoring Committee noted that:

*“32. Upon accession to the Council of Europe, Russia committed itself to impose a moratorium on executions “with effect from the day of accession”, and to abolish the death penalty within three years [...]. that while 53 executions took place in 1996, in flagrant violation of this commitment, an unofficial moratorium on executions was, however, put into place by President Yeltsin on 2 August 1996 [...].*

*34. A draft law introduced by the Russian deputy Mr Borshchev which would have made the moratorium on executions official, thus ensuring compliance with Russia’s commitment to the Council of Europe, was rejected by the State Duma on 14 March 1997 with 176 votes against, 75 in favour and 6 abstentions [...].*

*35. As of 17 March 1997, 688 prisoners were still held on death row, and are thus in imminent danger of execution should the moratorium on executions not be respected, for example for political reasons (according to opinion polls, the majority of the Russian population favours the retention of capital punishment)<sup>1</sup>.*

The unofficial moratorium system proved to be workable, but it **did not last very long. It was a very unreliable, fragile construction, not designed for the long term.** The legislature was in no hurry to correct the existing picture: the moratorium bill was rejected, Protocol No. 6 to the Convention was not ratified.

The Constitutional Court of the Russian Federation played a key role in this situation of legal uncertainty.

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<sup>1</sup> Anatomiya raspada. Kak i pochemu prava cheloveka perestali byt' cennost'yu v sovremennoj Rossii [Anatomy of Decay. How and why human rights have ceased to be a value in modern Russia]. Nizhniy Novgorod: Crew Against Torture, 2024. P. 56–57. Original Informational report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe is [here](#).



## Constitutional Court

The Constitutional Court of the Russian Federation (CC) is a federal judicial body of constitutional control that, among other things, interprets the Constitution and reviews the laws and regulatory bodies of the supreme authorities of the Federation and the regions for compliance with the Constitution. The decisions and judgements of the CC **are binding** on all authorities, organisations, and citizens. The practical importance of the CC is great, as its rulings in various areas of law often fill legislative gaps and formulate rules of law enforcement and interpretation. Indeed, in many respects, the CC is engaged in rule-making, i.e., the creation of legal norms in situations where the legislator itself is unable to cope.

In 1999, the Constitutional Court issued **a judgement**, in which it clearly and unambiguously stated that the death penalty could not be applied. In fact, it was this document that established an official moratorium on the death penalty in the country:

*"As of the date of the entry into force of this Judgement and until the adoption of an appropriate federal law ensuring throughout the Russian Federation the right to a trial by jury for any person accused of a crime for which the federal law establishes the death penalty as an exceptional measure of punishment, no punishment in the form of the death penalty may be imposed, regardless of whether the case is tried by a court with the participation of a jury, by a panel consisting of three professional judges, or by a professional judge and two lay judges".*

The ruling elicited mixed reactions from lawyers and human rights activists, ranging from complete approval to lamentation over the half-heartedness of the moratorium and the implied possibility of a return to the death penalty. It is noteworthy that the motivation for abolishing the death penalty in the CC judgement was procedural and formal rather than substantive. The Court justified the ban on the death penalty not based on the value of human life or, for example, Russia's international obligations, but on the basis of procedural considerations<sup>1</sup> – in the absence of jury trials, it is impossible to make the country's population dependent on which region a case is tried in. Earlier, we highlighted the wording of the Constitution of the Russian Federation, which makes the use of the death penalty dependent on ensuring the right of the accused to a trial by jury. In practice, the

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<sup>1</sup> Anatomiya raspada. Kak i pochemu prava cheloveka perestali byt' cennost'yu v sovremennoj Rossii [Anatomy of Decay. How and why human rights have ceased to be a value in modern Russia]. Nizhniy Novgorod: Crew Against Torture, 2024. P. 57–58.



Constitutional Court justified the temporary inability to carry out executions on the grounds that jury trials were not available in all regions of the country, leading to an inequality of rights.

As time went on and jury trials began to operate in more and more regions of the Russian Federation, concern grew about the fate of the moratorium, which was based on such a dubious and apparently temporary foundation. On 1 January 2010, the courts in the last Russian region, the Chechen Republic, were due to begin jury trials. And at the same time, according to the CC's position, the moratorium **should have ended**.

In autumn 2009, the Russian Supreme Court asked the Constitutional Court for clarification: "What will happen after Chechnya introduces jury trials? Does this mean that the rights of the country's inhabitants will be equalised and that executions can be ordered and carried out?" And in November 2009, the Constitutional Court issued **a decision**<sup>1</sup> that can still be called the cornerstone of the entire legal structure of the moratorium in modern Russia.

In this decision, the CC formulated a very substantial and solid justification, which differs from the procedural motivation of a decade ago. The stability of law enforcement, the irreversibility of changes and compliance with international obligations are the arguments that became the basis for the impossibility of returning to the death penalty:

*"[...] The fact that Protocol No. 6 [to the European Convention providing for the prohibition of the death penalty] has not yet been ratified does not, in the context of established legal realities, prevent it from being recognized as an essential element of the legal regulation of the right to life.*

*[...] [Russia has] a comprehensive moratorium on the use of the death penalty, which, according to meaning of its constituent legal acts, was originally intended to be short-term. However, this legal regulation has remained in force for more than 10 years [...] and is legitimized by the existing law enforcement practice.*

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<sup>1</sup> The distinction between a judgement (postanovlenie) and a decision (opredelenie) of the Constitutional Court of the Russian Federation, in general terms, lies in the fact that a decision is issued when the CC refuses to examine a case on its merits, whereas a judgement is delivered following a full constitutional hearing, as a result of which the contested provision is recognised either as complying or not complying with the Constitution of the Russian Federation, or when the Court responds to a request for interpretation of a disputed provision. At the same time, in some instances a decision also provides constitutional and legal interpretation, which makes such documents no less valuable.



*[...] As a result of such a long moratorium [...] sustainable guarantees of the right not to be subjected to the death penalty have been formed and a legitimate constitutional and legal regime has emerged, within the framework of which – taking into account the international legal trend and the commitments undertaken by the Russian Federation – an irreversible process aimed at the abolition of the death penalty is taking place [...]"*

This decision of the Constitutional Court seemed to put an end to the question of the moratorium, but even this decision – since the death penalty remained in the Constitution and the Criminal Code – did not prevent periodic discussions on both the abolition of the moratorium and expanding the scope of application of the death penalty. **And the more the political context in Russia changed, the more often such discussions took place.**



## To be or not to be for the death penalty?

### Paragraph summary

*In this part of the study, we show how the intensity of the political debate on the death penalty in Russia has grown. This process is influenced by three main factors: public reaction to high-profile crimes, Russia's withdrawal from international organisations, and the changing political context.*

*At the same time, Russia, as well as other countries where the death penalty debate once raged, takes the opportunity to refer to public opinion: in our country, the percentage of those who support the death penalty, although decreasing, is still relatively high.*

### Talk of lifting the moratorium doesn't happen on its own, it follows high-profile events

Outbreaks of public debate about the death penalty in general and a moratorium in particular occur regularly in Russia and are usually linked to high-profile crimes. The main triggers are serious and particularly grievous crimes against children, as well as terrorism, and, less often, corruption. The arguments for and against often go beyond the strictly legal level, they are joined by experts and "experts" from various fields and spheres of public life. Over the past 10 years, the death penalty **has been debated** almost every year, with varying degrees of intensity.

### The main events around which the controversy over execution in Russia was centred

2013	<p>The reason for the discussion about the return of the death penalty was the murder of underage girls in Naberezhnye Chelny and Irkutsk region, and the beginning was the statement of the head of the Ministry of Internal Affairs about the approval of the death penalty as a type of punishment<sup>[1,2,3,4,5]</sup></p> <p>In October and December, terrorist attacks in Volgograd further <b>fueled</b> the debate about the appropriateness of the moratorium</p>
2014	<p>Russia was deprived of the right to vote in the Parliamentary Assembly of the Council of Europe – in response, the country began to speculate about the possibility of reinstating the death penalty on its territory<sup>[1,2,3,4,5,6,7]</sup></p>
2015	<p>Talk of the death penalty was inspired by the thwarted terrorist attack in Moscow<sup>[1,2,3,4,5,6,7]</sup></p>
2016	<p>Colonel Dmitry Zakharchenko, the deputy head of the anti-corruption headquarters of the Russian Interior Ministry's "T" GUEBIPK (Main Directorate for Economic Security and Anti-Corruption of the Ministry of Internal Affairs), had been caught up in a corruption scandal, which immediately gave rise to those who suggested execution for treasury<sup>[1,2,3]</sup></p>



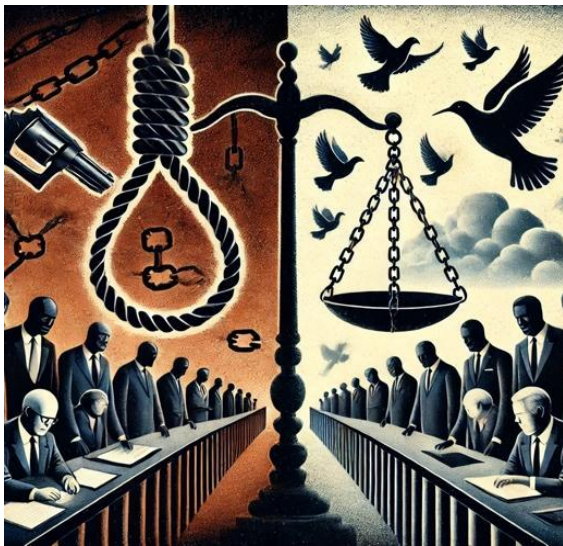
2017	There was a terrorist attack in the Saint Petersburg Metro that killed 16 people, and again, the proportional response to such crimes was the death penalty <sup>[1,2,3,4,5]</sup>
2019	The trigger was the murder of a nine-year-old girl in Saratov <sup>[1,2,3,4,5,6,7,8,9]</sup> . In a wave of public outrage, a poll on the page of the State Duma <b>was published</b> on one of the social networks on the need to abolish the moratorium on the death penalty
2021	Another high-profile crime against children – this time a mass shooting at a school in Kazan – had brought society back to debate the need for the death penalty <sup>[1,2,3]</sup>  That same year, corruption was in the news again, this time in connection with a series of high-profile criminal cases of embezzlement in the space and defense-industrial complex <sup>[1,2,3]</sup>
2022	The suspension of Russia's representation in the statutory bodies of the Council of Europe and the subsequent expulsion of the country from this intergovernmental organization marked a new round of discussion on the fate of the moratorium – since international obligations no longer bind Russia, why should it respect them? <sup>[1,2,3,4,5,6]</sup>
2023	An explosion in the center of the northern capital has killed a war correspondent known by the pseudonym <i>Vladlen Tatarsky</i> who was covering the war in Ukraine, adding fuel to an earlier controversy over the need to reinstate executions for terrorism <sup>[1,2,3,4,5]</sup>
2024	We have seen the latest sharp spiral in the debate over the moratorium and the need for executions most recently – a flurry of controversy following the March terrorist attack in the Moscow region Crocus City Hall <sup>[1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18]</sup> . At least 145 people died

The second primary reason for discussing the moratorium is Russia's suspension or withdrawal from intergovernmental organisations. This pattern is repeated: the discussion begins with a public statement by a high-ranking government official, which is then supported or challenged by his or her colleagues, and a public verbal battle escalates around the statement. In the case of high-profile crimes, such as breaches of international cooperation, the initial discussion centres on who can or should be executed and for what. And then they are replaced by discussions about the theoretical (im)possibility and practical ways of overcoming the moratorium.

In effect, we can say that the debates over the death penalty subside and flare up, but never cease, they have a permanent and sudden nature, acting as a kind of pulse.

The reasons for the disputes are pretty consistent with the central motifs in the rhetoric of the parties. And, interestingly, they do not differ in any way from the disputes that have erupted in other countries. **Theses about the need to fight crime – or, more precisely, certain types of crime –** are followed by either public or political outrage.





The second most important reason we hear in such discussions is that the return of executions is "**an internal affair of the state**". Paradoxically, however, it is used by both supporters and opponents of the idea. The former, whenever there is tension in relations with intergovernmental organisations, don't miss the opportunity to say something like: "Well, now it's time to do what we think is right!". Opponents, on the other hand, claim that international organisations are secondary, since a long-term moratorium is our own choice and a practice that is in the country's interest. At the

same time, the rhetoric of **conflict between Western and domestic values**, which plays a **crucial role** in some areas, is surprisingly almost invisible in the debate on the death penalty.

Finally, it is rare to find a debate without an appeal to the much-maligned **public opinion** and the expression of the will of the electorate (or, conversely, the need not to follow the opinion of the majority), which is also in line with the global trends analysed in the previous chapter.

### **"Moods and expectations of our society", or How Russians look upon execution**

The results of various sociological surveys provide support for the public voices that advocate for lifting the moratorium. As a rule, supporters of the return of the death penalty refer to the population, which is also "in favour" of it, and **promise to make** a "decision on the issue of executions that will correspond to the moods and expectations of our society".

The results of opinion polls indicate that the percentage of Russians who support the reintroduction and even expansion of the death penalty is indeed high, but it has been gradually decreasing over the past 20 years, while the number of those who oppose taking away a person's life as a punishment has, on the contrary, increased.

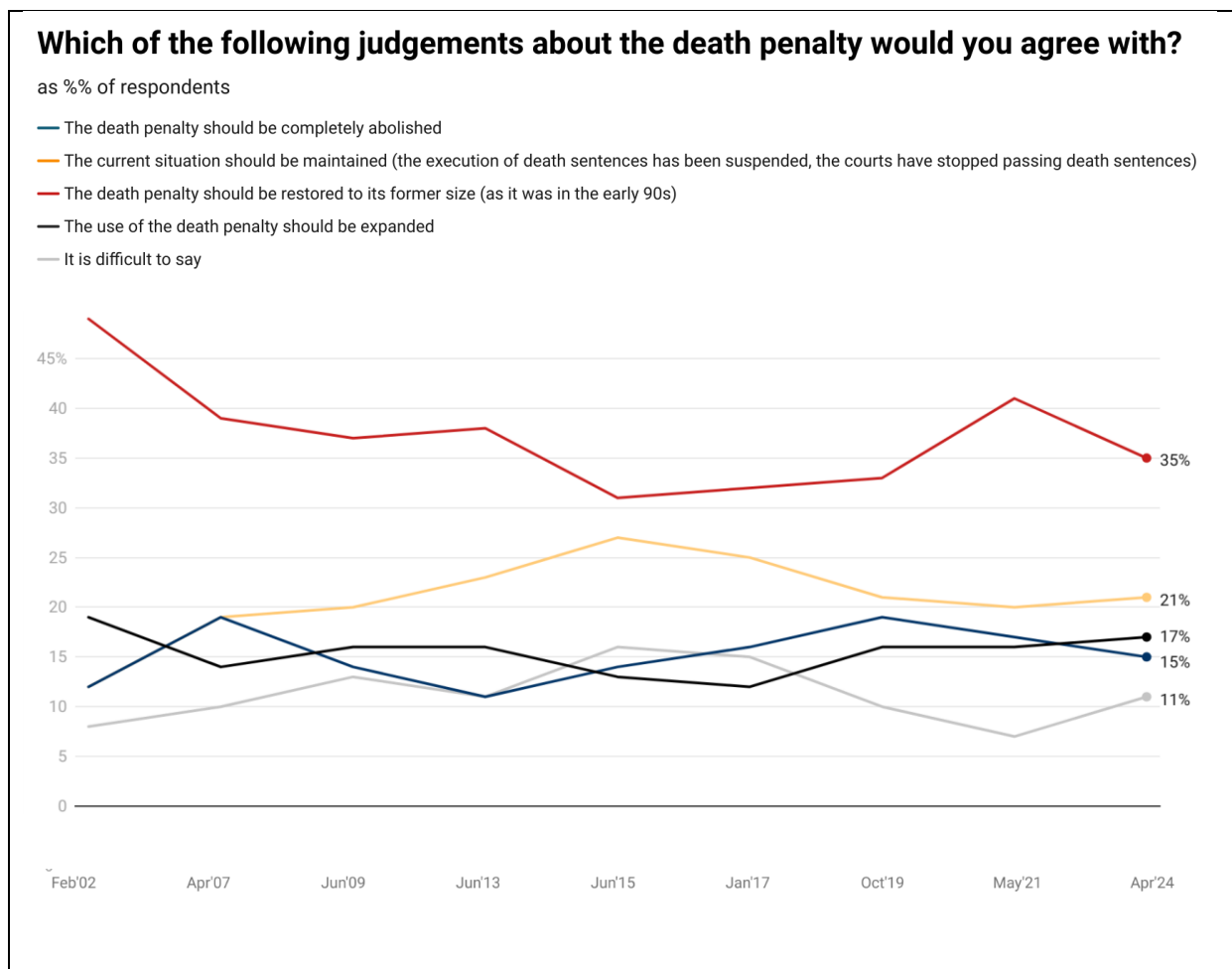
Thus, **according to** the *Public Opinion Foundation*, in 2001, 80% of respondents answered affirmatively to the question of the admissibility of sentencing criminals to the death penalty, and in 2019, 69%. A total of 16% of respondents answered negatively in 2001 and 21% in 2019.

**According to polls** by the *Levada-Centre*, support for the reintroduction and expansion of the death penalty in one form or another was around 68% in 2002 and 53% in 2024. Support for



a moratorium and complete abolition of the death penalty increased from 24% in 2002 to 35% in 2024.

The infographic has been sourced from the Levada-Centre website



We have already shown that the discrepancy between the actual situation with the use of the death penalty in a country and the results of sociological surveys is not uncommon in global practice. Therefore, the mere fact that Russia has a high level of support for the death penalty, combined with the current moratorium, should not create confusion, and certainly does not indicate that this will sooner or later become a real reason for the return of the death penalty. But it is possible to use public opinion to strengthen other arguments.

### Top 3 crimes for which Russians believe the death penalty is permissible

According to the Public Opinion Foundation (polls 2002, 2014, 2015, and 2019)	According to Levada-Center (2007, 2019, and 2021 polls)
<ul style="list-style-type: none"> <li>• Sexual offenses against minors</li> <li>• Murder</li> <li>• Terrorism</li> </ul>	<ul style="list-style-type: none"> <li>• Rape of minors</li> <li>• Premeditated murder</li> <li>• Serial killings</li> </ul>



It is reasonable to suggest that there is a correlation between these poll results and the fact that a spike in public discussion usually follows high-profile crimes of a similar nature. However, the way in which causality is established in this instance, i.e., whether the poll results are a reaction to high-profile crimes or whether, on the contrary, the increase in public controversy and outrage is a consequence of the special treatment given to certain types of crime, needs to be examined separately.

**"There is a lack of cells... and executioners" –  
just as there is a lack of consensus on the fate  
of the moratorium in Russia**

The debate on the fate of the moratorium is not immune to the interference of dilettantes. It is not surprising, therefore, that the vociferous statements on the return of the moratorium are often fundamentally incorrect and sometimes even absurd from a legal point of view. And a diploma or even a degree, as practice shows, is no insurance against incompetence. But even qualified and recognised experts are sometimes a long way from agreeing on the key elements of the subject under discussion. This is explained by the complexity of the problem itself, which in turn is caused by the history of the moratorium and the peculiarities of its legal formalisation.

In this context, there cannot be a consensus on a moratorium – and most likely, if the death penalty is reinstated, it will be a political rather than a legal decision. But we can already state that **there is no simple answer to the question of whether and how the death penalty can be restored in Russia**. As a result, the field of public discussion represents a whole spectrum of multidirectional positions, a significant part of which echo the preceding ones.

While some **argue** that "from the point of view of current Russian legislation, it seems impossible to overcome the ban imposed by the Constitutional Court", others **claim** that "there are no legal obstacles to the return of the death penalty". Experts and speakers start from the same premises, make the same legal assumptions, but draw radically different conclusions.

Some **believe** that the will of the president is enough to overcome the moratorium: "For this law to work, the only thing that is missing are the execution chambers and, as I will call them conventionally, the executioners. To restore this, we probably need a presidential decree, and that's all". The president himself **refers** to the opinion of the Constitutional Court: "He [Constitutional Court Chairman Valery Zorkin] said, in response to questions from those in favour of reintroducing the death penalty, that all we need to do is change the Constitution."



Nevertheless, it is worth noting that the Constitutional Court and its decisions are receiving a lot of attention in these discussions. Some **believe** that overturning the moratorium is entirely "up to the Constitutional Court", while others **see** its decisions as a declaration "that carries no weight" (although the decisions of the Constitutional Court are final and binding on all actors in Russia). Some **hope** that the Constitutional Court will reconsider its position on the death penalty, "taking into account the evolving international situation". Others are **convinced** that "the judgement of the CC on the moratorium on executions cannot be overturned by anyone, including the CC itself".

**The suggestion** that the issue of the death penalty should be put to a referendum **is rejected** because such a method is impossible and wrong, because "a civilised state and enlightened authorities should not go along with the emotions of the masses, especially in a matter such as the right to life".

The same applies to Russia's fulfilment of its international obligations. While some see the withdrawal from the Council of Europe as an opportunity for a substantive discussion of the possibility of lifting the moratorium, **its opponents are convinced** that even the denunciation by our state of international conventions and protocols will not enable it to reinstate the death penalty.

**The rare proposals** to remove "all references to the death penalty" from the Criminal Code stand out against the general background because "in fact this type of punishment no longer exists in the Russian Federation, as it is not only not applied, but also cannot be imposed by a court. However, they do not receive a serious response. Incidentally, in the summer of 2001, **a bill** was introduced in the State Duma to abolish the death penalty from the Criminal Code. In April 2002, it **was returned** to its authors.

Obviously, it is extremely difficult for an outside observer, especially one who is not involved in the law, to assess the motivation of all positions and not get lost in the diversity of opinions. On the whole, however, all the arguments can be grouped into two conceptual approaches, each of which has a solid legal basis. We will look at the death penalty in Russia through their respective perspectives.



## The letter of the law or the rule of?

### How Russia can resolve the issue of lifting the moratorium

#### Paragraph summary

*There are two fundamentally different approaches to the question of reintroducing the death penalty in Russia – and neither of them can be called wrong. On the one hand, all legal possibilities to abolish the moratorium exist; you just have to use them! But at the same time, the concept of human rights and the established order in Russia directly prevent it. Only time will tell what choice Russia will make.*

In this part, we will not discuss the arguments for and against the death penalty as a form of punishment. Our purpose is to try to answer the question of whether it is actually possible to reinstate it, from a purely legal point of view.

But before doing so, we should make an important caveat. The domestic and foreign policy events of the last five years may give the reader a sense of the futility of any forecasts and a conviction that, in reality, anything is possible, even what seems impossible. However, we put such considerations aside, as well as any speculation on the subject of "black swans". **We are interested in the actual legal conditions that will determine the fate of the moratorium.**

In analysing the possibility of a return to the death penalty, we distinguish between two approaches – the natural law approach and the positivist approach, both derived from basic legal theory. All the arguments that are publicly debated are somehow incorporated into one or the other explanatory model. The only arguments that remain out of the picture are the hideous and unrealistic ones of the "let's ask the president and he will lift the moratorium by decree" variety. At the same time, each approach suggests an answer to the question of the return of the death penalty on two levels: theoretical (is it possible in principle?) and practical (is it difficult to implement?).

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<sup>1</sup> The Black Swan theory refers to **Nassim Taleb's concept** of rare, sudden, and hard-to-predict events with significant consequences.



## The natural law concept

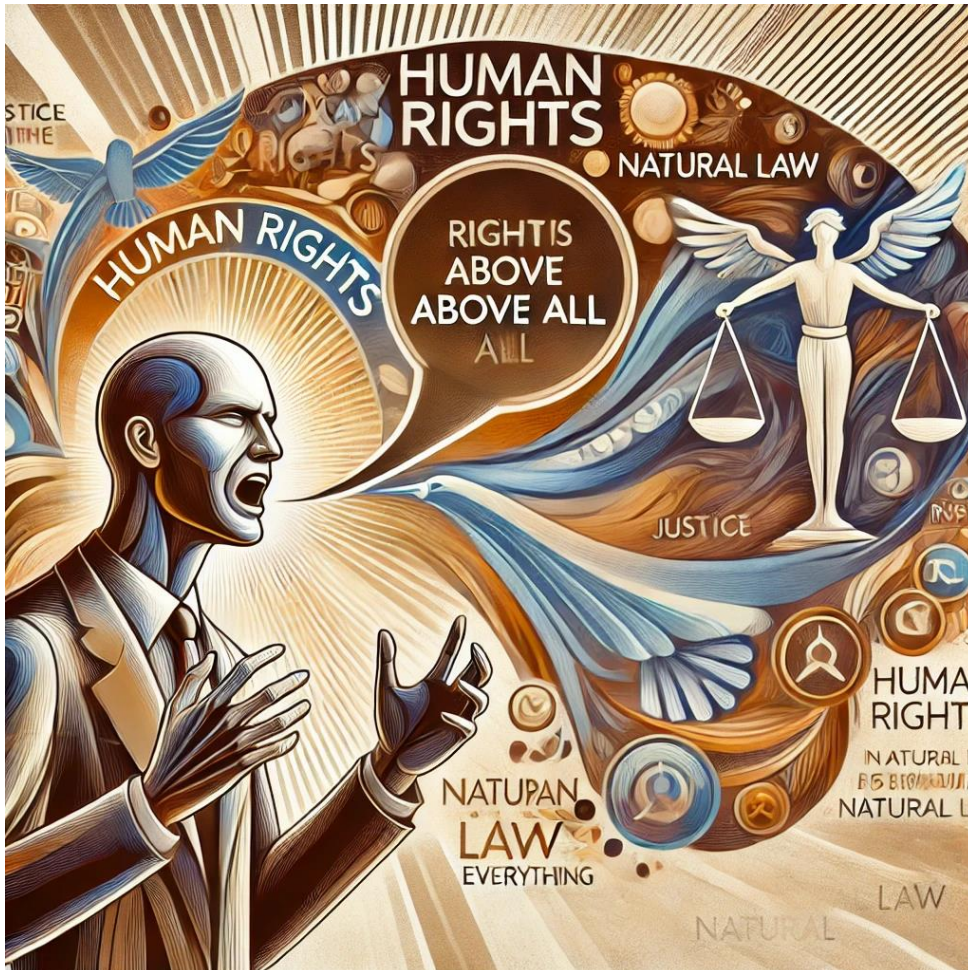
The natural law approach is based on the perception of law as a set of norms that is not limited to written laws and other normative acts. The thesis of the arguments within this approach is as follows.

1. The Constitution of the Russian Federation **provides** that the death penalty shall be applied **in exceptional cases** – for particularly grave crimes against life and in the presence of jury trials – until its abolition →
2. The current moratorium **is based on Russia's international obligations and the positions of the Constitutional Court**, which the latter has reiterated twice, quite specifically →
3. The main international legal act about the death penalty in force in the Russian Federation is Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed by Russia but not ratified. Contrary to popular belief, **Russia's exclusion from the Council of Europe did not terminate its validity**. Our country has officially denounced the Convention for the Protection of Human Rights and a number of Protocols to it, but not **the sixth one** →
4. The non-ratification of Protocol No. 6 also does not mean that the Russian authorities are under no obligation to do so. According to the **1969 Vienna Convention** on the Law of Treaties, a signatory State is obliged to refrain from acts which would defeat its object and purpose until it has clearly expressed its intention to withdraw from the treaty. And since the primary obligation under Protocol No. 6 is the abolition of the death penalty and of its use, Russia – in the absence of a clear intention to withdraw from its obligations – **cannot violate it** →
5. At the same time, international obligations are not limited to the Protocol No. 6. In particular, Russia is a state party to the International Covenant on Civil and Political Rights and **cannot ignore** the positions of the UN Human Committee and the UN Secretary General, according to which **a return to the death penalty after a long *de facto* moratorium would mean a violation of the provisions of the Covenant**.

In its 2009 decision, the Constitutional Court separately justified the non-application of the death penalty on two grounds: Russia's international obligations and "lasting guarantees of the human right not to be subjected to the death penalty" that had developed due to the long moratorium. The Court emphasised the irreversibility of the process of complete abolition of the death penalty. This



suggests that the prolonged non-application of the death penalty is tantamount to its abolition. It is precisely this abolition that is referred to in Article 20 of the Constitution. Consequently, the attempt to break the moratorium constitutes a direct violation of the country's fundamental law.



This is how  
*ChatGPT* sees  
supporters of  
natural law

There is only one way to reverse the process of abolishing the death penalty, if we start from the premise of natural law, and that is to adopt a new constitution. **And that means adopting a new constitution, not amending the current one.** The norm on the death penalty is in the chapter that the parliament cannot change. It is only through a qualified majority (three-fifths of the total membership of the State Duma and the Federation Council) that the legislature **can initiate** the convening of a Constituent Assembly to decide on the fate of the Constitution. However, there is no Constituent Assembly in Russia.

Based on the concept of natural law, the question of the return of the death penalty in Russia is answered: **yes, it is theoretically possible, but practically infeasible.** The only way is to pass a new constitution. And that is an incredibly complex undertaking that seems unlikely in the foreseeable future. Any other way would be a direct violation of the country's fundamental law and therefore an illegal act.



## Positivist concept

The positivist approach takes a stricter view of law as a system of legally formalised norms. The law is what is written in laws and nothing else. In relation to the moratorium on the death penalty, the system of argumentation within the framework of this concept is organised as follows.

First of all, the initial assumptions do not differ from the previous approach: there is the Constitution of the country, which postulates a process of abolition of the death penalty, there are Russia's international obligations, and there is the position of the Constitutional Court, which in 2009 established the moratorium as binding for all bodies, citizens, and organisations. However, at the level of interpretation, the differences emerge, and the positivists follow this course in their argumentation.

1. A moratorium on the death penalty is **not tantamount to its abolition**. The CC itself, in its 2009 decision, clearly distinguishes between these concepts: "Since Protocol No. 6 has not yet been ratified, it as such cannot be considered as a normative legal act directly abolishing [...] the death penalty in the sense of Article 20 (part 2) of the Constitution [...]. At the same time, federal legislation retains provisions providing for this type of punishment and, accordingly, the procedures for its imposition and execution" →

2. Positivists continue the logic of the CC, citing as an example the provisions of the Criminal Code and the Criminal Executive Code, which have remained unchanged for many years: **since the law contains mechanisms for the implementation of executions, there has been no abolition required by the Constitution**. "A comprehensive moratorium on the use of the death penalty is in force in the Russian Federation, concretising the guarantees of the right to life enshrined in the Constitution of the Russian Federation, which, according to the meaning of the legal acts that constitute it, was originally intended as a short-term moratorium," the CC writes. Even the very thesis of the Constitutional Court about "irreversibility of the process aimed at the abolition of the death penalty" rather indicates that abolition is the goal, and a long moratorium is only a path to it →



3. However, this goal has not been achieved as long as the death penalty is included in the list of punishments in the Criminal Code. Exclusion of capital punishment from the criminal law **would be the very abolition of the death penalty** in the sense of Article 20(2) of the Constitution. And in this case, it could be returned in exactly one way – through the adoption of a new Constitution according to the same algorithm described above. The other mechanisms, including the reintroduction of the death penalty into the Criminal Code, would directly contradict the Constitution. However, the bill to remove the death penalty from the list of punishments was not even considered →

4. The CC itself, in its 1999 and 2009 rulings, **also did not oblige the legislator to change the legal regulation of the death penalty** and make any amendments to the current laws. So, from a formal point of view, we cannot talk about any abolition of the death penalty in Russia today.

Paradoxically, by imposing such a half-hearted moratorium, the Constitutional Court has made itself a weak link, providing arguments that cannot be clearly used by those who see no legal basis for the return of the death penalty. Yes, we can argue that the established legal order and adherence to international law are strong arguments for the CC, but without a legal ban on executions, their sustainability is questionable. And its weakness lies, among other things, in the reputation of the CC, which is prone to changing its own decisions.



Positivist lawyer through  
the eyes of ChatGPT



The Constitutional Court **has repeatedly displayed** a willingness to change its legal position on various issues. In 2015, following the Yukos case, which **ended** in 2014 in the European Court of Human Rights not in Russia's favour, the Constitutional Court issued **a judgement** on non-execution of ECHR rulings if they contradict the Russian Constitution. This was the first time that the Constitutional Court undermined the priority of the norms of international law, which it had repeatedly proclaimed, and partly abolished the norms allowing the resumption of proceedings at the national level after the results of the proceedings in supranational bodies. In 2016, the Constitutional Court set the first precedent: with its new **judgement**, it allowed **the ECHR judgement** on the possibility of participation in elections by people in prison not to be enforced. The second precedent was not long in coming: in 2017, the same ECHR judgement on the Yukos case was **recognised** as unenforceable. This has happened before: after **refusing** to extend the powers of the country's president in relation to the adoption of the new constitution in 1998, the CC did a 180-degree **turn** in 2020.

Legitimised and implemented in practice, the departure from the obligation to implement the decisions of international bodies was elaborated in 2022. Russia's withdrawal from the Council of Europe was accompanied by the adoption of a package of laws allowing it not to implement the judgments of the ECHR that entered into force after the date Russia considers as the moment of termination of its membership. Such a decision **violates** Russia's international principles and obligations, which supporters of the natural law approach so often invoke. At the same time, the Constitutional Court has repeatedly<sup>[1,2]</sup> rejected citizens' complaints about the violation of their rights as a result of new norms because the legislator acted within the limits of its authority.

In light of the above, no one can guarantee that the Constitutional Court will stick to its 2009 reasoning on the death penalty. Of course, a radical change of position will not go unnoticed. The country will have to sacrifice its international obligations. Protocol No. 6 to the Convention has not been ratified, but it has been signed, and Russia is not on the list of countries notified for withdrawal from the Council of Europe. The Vienna Convention on the Law of Treaties obliges a state not to violate a signed treaty unless it expresses its wish to withdraw from it (**article 18**). And the Russian Constitution **proclaims** the supremacy of international law over national legislation. All this together forms the fragile pillar on which the moratorium rests to this day. To remove it would be to sign, once again, a declaration of disregard for the principles and norms of international law. The question is whether the state is prepared to pay such a price. And such a decision is likely to be purely political.

Based on the positivist concept, the answer to the question of the return of the death penalty in Russia will be: **yes, it is theoretically possible and practically feasible**. The Constitutional Court will play the key role in this. However, to achieve such a turnaround, the CC will not only have to disregard international principles, norms, and commitments undertaken by Russia, and violate its own legislation, but also disregard its own positions once again.



## In lieu of conclusions

In light of the global historical experience described in the first chapter, it can be argued that the history of the death penalty in modern Russia falls well within the trajectory that dozens of states have already followed. At the same time, it is unique in the steps it takes along this historical path.

In the 1990s, two key factors led to the introduction of a moratorium in Russia. The first was the attempt to **change the political regime** to a democratic one, a scenario that most often leads countries to abolitionism. In the process of changing ideologies and regimes, the existing Soviet legal system underwent a major reformatting. The new government's declared commitment to democracy and human rights was reflected in the constitutional abolition of the death penalty.

The second factor was the Russian state's desire **to be a member of an international organisation** that prioritises the protection of human rights and is guided by the principles of priority protection of the right to life. For a long time, Russia was a member of the Council of Europe, which required countries to stop using death sentences. **The position of the political leader** has also played an essential role in the history of the moratorium. It was the president who once ensured the initial implementation of the moratorium itself – it came from the decree of the head of the country. Another problem is that all these factors that force countries to abandon the death penalty are increasingly **losing their securing power in modern Russia**.

The fact that Russia has chosen the path of introducing a **moratorium** and gradual abolition of the death penalty, rather than a one-step and complete abolition, shouldn't be misleading. As global experience indicates, the path of abolishing the ultimate punishment by banning its application is a common practice.

At the same time, the **longer** a state lives without the death penalty, the less inclined it is to reintroduce it. And in this respect, Russia has a serious advantage – a 28-year moratorium, which helps to strengthen abolitionist tendencies. Few countries are able to resume executions after such a long hiatus, and usually for significant internal reasons. The Constitutional Court's argument about "sustainable guarantees of the right not to be subjected to the death penalty" as a result of a long moratorium could not be more apt.

Another important characteristic of countries that have abolished the death penalty or have a long moratorium is **the level of economic development**. And here, Russia, which **is considered** a high-



income country, is no exception. The longer this parameter remains in the green zone, the less likely it is, all other things being equal, that the issue of the actual abolition of the death penalty will be reversed.

Finally, **countries that are party to international treaties are less likely to retain the death penalty. And trends in international law** are among the most common official reasons for abolishing the death penalty. Russia is a party to the Covenant on Civil and Political Rights, the Convention against Torture, and other basic international legal agreements. Undoubtedly, the situation with the denunciation of a number of documents and the refusal to implement the ECHR's decisions due to the exclusion from the Council of Europe has become an alarming signal and is likely to remain that way in the future. However, Protocol No. 6 has retained its status of being signed but not ratified, and the state **continues to declare**, at least in words, its commitment to international norms and obligations. In the case of Russia, it is hard to overestimate the importance of the factor of commitment in the field of international law. The moratorium is primarily based on the conventional obligation to comply with signed treaties, as we have discussed in some detail above. But whether Russia's willingness to abide by its obligations will last is an open question.

The whole history of the death penalty in Russia leaves a strong impression that the state has always left itself room for manoeuvre. All the measures taken seem half-hearted and indecisive. The provision on the temporary nature of the death penalty was introduced into the Constitution, but the date of its abolition was not defined in any way. Article 6 of the Convention was signed, but not ratified in 27 years; a moratorium was introduced, but not enshrined in law; the irreversibility of the process of abolition of the death penalty was declared, but the death penalty was not excluded from the list of punishments. The malleability of the position of the highest judicial body, which, with one hand, imposes a moratorium and with the other creates the grounds for the State's refusal to fulfil its international obligations, only aggravates the situation.

In these conditions, the key factor is political stability, which depends directly on the external and internal political situation in the country. As the world experience shows, the main reasons for the return of the death penalty are **political crisis, economic instability, and high crime rate**. We believe that it is the potential crisis phenomena that pose the greatest threat to the stability of the moratorium in Russia.



**Factors of our forecast – by looking at them, the reader will draw their own conclusions for themselves (and perhaps not agree with our assessment at all)**

Factor	Description	Does this factor indicate that Russia is close to lifting the moratorium?
The political system influences the state of the death penalty in a country – authoritarian regimes tend to retain and reinstate capital punishment	<p>At the time of the abolition of the death penalty, Russia embarked on a path of democratization of its institutions, which partly led to the moratorium, but today there is every reason to believe that the country has moved in the opposite direction.</p> <p>According to the measurements of <i>the Polity Project</i>, since 2000, the democratization score assigned to Russia has continued to fall, and some researchers consider the country to be authoritarian. All of this could be a worrying signal, given the analysis of the death penalty in other countries.</p>	Yes
Major societal and political crises can influence the lifting of a moratorium or the abolition of the death penalty	<p>At the moment, the social and political situation in Russia can be considered relatively stable, and so far we have no good reason to believe that radical changes of the kind we have described in the examples of other countries await us in the near future.</p> <p>However, the tensions in the geopolitical situation could turn this forecast in the opposite direction. At the same time, it should be noted that the factor of influence of the political system on the state of execution in the country is most reliable to analyse retrospectively, rather than to make forecasts.</p>	More likely yes than no
The "older" the moratorium, the lower the risks of its lifting	More than 28 years have passed since the moratorium was introduced in Russia, counting back to the presidential decree of 1996. Measurements show that an extremely limited number of countries return to the death penalty after such a long hiatus.	No
The return of execution occurs in a situation of incomplete cancellation of the execution	On the one hand, incomplete abolition may be alarming, but we should not forget that it is the moratorium that most often precedes abolition. So Russia still has a chance.	More of a no than a yes



Membership in international organizations prevents the return of the death penalty and promotes its eventual abolition	<p>Nearly 30 years ago, the Council of Europe played an important role in establishing a moratorium on executions in Russia, and regional human rights mechanisms – the ECHR – have long acted as an additional guarantor of the right to life.</p> <p>Today, however, only UN structures and international treaties remain as such constraints – but due to their lack of an effective mechanism that would be triggered promptly in response to countries' failure to fulfill their obligations, we cannot unequivocally guarantee that international law, in the absence of the Council of Europe and the ECHR, will reliably protect Russians from a return to the death penalty.</p>	More likely yes than no
A strong civil society can prevent the return of the death penalty	<p>The situation of civil society in Russia is worrying: the country now lacks independent institutions capable of effectively criticizing state policy and opposing various sensitive decisions – something that countries that have abolished the death penalty, for example, can boast of.</p> <p>The institutions that feel most secure are those that echo the official state line. And no one can imagine which line will be the red line for the state and which approach will be used to decide the fate of the death penalty in the country.</p>	Yes
High levels of crime and violence – including state violence – could signal that execution will once again be used in the state	<p>The level of general crime in Russia <b>has been steadily falling</b> for decades. At the same time, independent researchers <b>show</b> that for the last couple of years, the country has been recording an increase in the number of serious and particularly grave crimes. This may be a worrying signal.</p> <p>All the work of the Crew Against Torture and other human rights defenders in Russia shows that the level of arbitrariness, including that committed by state actors personally or supported by their inaction, continues to be significant. The authorities are unable to respond effectively to these challenges.</p>	More likely yes than no
Countries with strong economies and high levels of development do not characteristically practice capital punishment	Russia's economic situation makes it impossible to compare it with countries that once brought back execution.	No



Culture, history, and religion influence a country's decisions to retain, abolish, or return the death penalty	<p>Traditionally, except for the Soviet period of its history, Russia has never been characterized by a large number of executions, and the first moratorium in the time of Elizaveta Petrovna was far ahead of the abolition of the death penalty in other countries. In a broader sense, the only negative example for Russia is the period of Stalinist repression.</p> <p>At the same time, the Church and other heavyweight institutions that influence the social fabric do not in any way promote the need to lift the moratorium, which, even in combination with historical memory, offers some hope.</p>	No
Among the countries practicing executions, some are those whose criminal proceedings cannot be considered of high quality	Russia does not belong to the list of countries whose justice does not raise questions. Researchers note that the level of provision of fundamental guarantees for suspects and the independence of the courts are highly questionable. <sup>1</sup>	More like yes than no

In the event of a possible return of the death penalty, the good news is that it is reversible. Almost all countries that have reintroduced the death penalty have eventually **abolished it altogether**. At the same time, a **long moratorium** often contributes to a situation where the death penalty is **not applied in practice** after its reintroduction. And here Russia has serious prospects for the future. Finally, there is an objectively positive trend – since it is possible to speak of positivity in the aspect of deprivation of life – of a significant **decrease** in the frequency of application of the death penalty in practice after its reintroduction.

To sum up, we can say that overcoming the moratorium in Russia is unlikely, but possible. In fact, under certain conditions, the mechanism for reintroducing the death penalty could be established and implemented. However, such a step would mean that the state would abandon its international obligations and principles, sign its name to the inability to ensure the stability of its own legal system, and, as a result, lose face. Everything depends on the question of price and political will.

**But even the worst-case scenario leaves room for hope.** International experience shows that **a final and unequivocal rejection of the death penalty usually follows its return**. And this gives rise to a feeling that, in the light of the above, it is challenging to characterise other than "cynical optimism".

<sup>1</sup> Anatomiya raspada. Kak i pochemu prava cheloveka perestali byt' cennost'yu v sovremennoj Rossii [Anatomy of Decay. How and why human rights have ceased to be a value in modern Russia]. Nizhniy Novgorod: Crew Against Torture, 2024.



## Annex 1

## Profiles of countries included in this study

## Japan

Year of foundation/independence	1952 – withdrawal from post-war U.S. administration
Status of the death penalty	Remains
Power structure	Unitary
Regime	For 2023, democratic; the latest <i>Polity</i> measurement had a democratization score of +10 (out of a possible 10)
Level of economic prosperity	Advanced economies (IMF data for 2023)
Form of government	Constitutional monarchy
Religious status	Secular state, Buddhism predominates among the population
Key legislation	Constitution of Japan, 1947
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> <li>● Observer at the Council of Europe</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● M. Obara-Minnitt. Japanese Moratorium on the Death Penalty, 2016</li> <li>● David T. Johnson. The Culture of Capital Punishment in Japan, 2020</li> </ul>
A brief historical background on the execution track	Japan has retained the death penalty from 1945 to the present day. The country has never declared a moratorium officially. The periods of the unofficial moratorium are considered to be 1989–1993, 2009–2010, and 2010–2012
Briefly on the motivation for cancellation/refunds	Irrelevant
Method of execution	Hanging
The last execution	On 26 July 2022, Tomohiro Kato was hanged for the murder of seven people in the 2008 Tokyo terrorist attack
Execution statistics	<a href="#">Source link</a>
The latest public opinion poll	State Public Opinion <a href="#">Poll</a> , 2019



## China

Year of foundation/independence	1949 – proclamation of the People's Republic of China
Status of the death penalty	Remains (but Macao and Hong Kong do not apply the death penalty)
Power structure	Unitary
Regime	For 2023 – authoritarian, probably closer to totalitarian; according to the latest <i>Polity</i> measurements, it has a democratization score of –7 with a possible range of –10 to +10
Level of economic prosperity	Advanced economies (IMF data for 2023)
Form of government	One-party parliamentary republic
Religious status	Secular State, no predominant religion – due to the multinationality and cultural differences of the peoples inhabiting China
Key legislation	Constitution of the People's Republic of China 1982
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Data in China on the death penalty is classified
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● R. Hood. Abolition of the Death Penalty: China in World Perspective, 2009</li> <li>● Zh. Zhou. The Death Penalty in China: Reforms and Its Future, 2012</li> <li>● Respect for Minimum Standards? Rights practice, 2020</li> <li>● Use of Death Penalty in China: Sentencing, Rights practice, 2021</li> <li>● Tobias Smith, Matthew Robertson, Susan Trevaskes. (Not) Talking about Capital Punishment in the Xi Jinping Era, 2022</li> </ul>
A brief historical background on the execution track	China has retained the death penalty from 1945 to the present day. The country has never officially declared a moratorium
Briefly on the motivation for cancellation/refunds	Irrelevant
Method of execution	Firing squad, lethal injection
The last execution	China is considered the world leader in the number of executions, but the exact number is unknown
Execution statistics	
The latest public opinion poll	Public opinion <b>poll</b> in three provinces of the PRC, 2007/2008



## Belarus

Year of foundation/independence	1991 – gaining independence as a result of the collapse of the USSR
Status of the death penalty	Remains
Power structure	Unitary
Regime	For 2023 – authoritarian, probably closer to totalitarian; according to the latest <i>Polity</i> measurements, it has a democratization score of –7 with a possible range of –10 to +10
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Presidential Republic
Religious status	Secular state, predominantly Orthodox population
Key legislation	Constitution of 1994
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Data on the death penalty is classified
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● A. Akulenko, O. Fablinova, M. Chernyanskaya. Crime and punishment: perception, assessments, attitude of society, 2013 (А. Акуленко, О. Фаблинова, М. Чернянская. Преступление и наказание: восприятие, оценки, отношение общества, 2013)</li> <li>● Andrei Paluda, Palina Stsepanenka, Adarya Hushtyn. The Death Penalty in Belarus, 2016</li> </ul>
A brief historical background on the execution track	Belarus has maintained the death penalty from 1991 to the present day. The country has never officially declared a moratorium
Briefly on the motivation for cancellation/refunds	Irrelevant
Method of execution	Firing squad
The last execution	On 16 July 2022, Victor Skrundik was shot for two murders and attempted murder of pensioners
Execution statistics	Source <a href="#">link</a>
The latest public opinion poll	State Public Opinion <a href="#">Survey</a> , 2017



## Singapore

Year of foundation/independence	1965 – independence from Malaysia
Status of the death penalty	Remains
Power structure	Unitary
Regime	For 2023 – Democratic ( <i>The Economist</i> Democracy Index 2023)
Level of economic prosperity	Advanced economies (IMF data for 2023)
Form of government	Parliamentary republic
Religious status	Secular state, religious affiliation of citizens does not allow to identify the dominant confession
Key legislation	Constitution of 1965
International treaties and status with international organizations	No
Jurisdiction of the regional human rights court	No
Availability of country information	Data on the death penalty is classified
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● Ariel Yap and Shih Joo Tan. Capital Punishment in Singapore: A Critical Analysis of State Justifications From 2004 to 2018, 2020</li> <li>● Carolyn Hoyle and Jocelyn Hutton. National Sovereignty versus Universal Human Rights: drugs and the mandatory death penalty in Singapore, 2023</li> </ul>
A brief historical background on the execution track	Singapore has retained the death penalty from 1945 to the present day. The country had a brief <b>moratorium</b> between 2011 and 2014
Briefly on the motivation for cancellation/refunds	Irrelevant
Method of execution	Hanging
The last execution	In August 2024, 59-year-old Stephen Paul Rudge was executed for drug distribution
Execution statistics	<a href="#">Source link</a>
The latest public opinion poll	State public opinion <b>poll</b> , 2021



## USA

Year of foundation/independence	1776 – independence from Great Britain is proclaimed
Status of the death penalty	Moratorium on federal executions. The status of executions in the states is a matter for regional authorities to decide for themselves
Power structure	Federation
Regime	For 2023, Democratic; according to the latest <i>Polity</i> measurements, it has a democratization score of +5 with a possible range of -10 to +10
Level of economic prosperity	Advanced economies (IMF data for 2023)
Form of government	Presidential Republic
Religious status	Secular state, majority Protestant or Catholic (over 65% combined)
Key legislation	The Constitution of 1787
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> <li>● Observer at the Council of Europe</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● St. Banner. The Death Penalty: An American History, 2002</li> <li>● Franklin E. Zimring. The Contradictions of American Capital Punishment, 2004</li> <li>● Howard W. Allen &amp; Jerome M. Clubb. Race, Class, and the Death Penalty: Capital Punishment in American History, 2009</li> </ul>
A brief historical background on the execution track	The United States has retained the death penalty from 1945 to the present day. The country did not use executions between 1967 and 1977. Executions resumed thereafter. An official moratorium existed between 1972 and 1976. There has been a moratorium on federal executions since 2021. At the regional level – as of 2024 – 29 out of 50 states have either enacted a moratorium or abolished the death penalty altogether
Briefly on the motivation for cancellation/refunds	<ul style="list-style-type: none"> <li>• 1972: U.S. Supreme Court ruled the death penalty unconstitutional in <i>Furman v. Georgia</i></li> <li>• 1976: The U.S. Supreme Court recognized the death penalty as constitutional</li> </ul>
Method of execution	Lethal injection is the most widely used method of execution, but many states authorize other methods of execution (electric shock, lethal gas, firing squad)
The last execution	On 1 October 2024, the state of Texas executed a serial killer and rapist via lethal injection – he was convicted of killing 16-year-old twin sisters in 1989. He spent 28 years on death row
Execution statistics	1976-2024 / 1608-2002
The latest public opinion poll	Public opinion poll, 2023



## Malaysia

Year of foundation/independence	1957 – independence from Great Britain
Status of the death penalty	Moratorium
Power structure	Federation
Regime	For the year of the moratorium – democratic; according to the latest <i>Polity</i> measurements, had a democratization score of +7 with a possible range of -10 to +10
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Constitutional monarchy
Religious status	Islam is the state religion
Key legislation	Constitution of 1957
International treaties and status with international organizations	Standing invitation for UN Special Procedures
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● Sidney Haring. Death, Drugs and Development: Malaysia's Mandatory Death Penalty for Traffickers and the International War on Drugs, 1991</li> <li>● Daniel Pascoe. An Investigation of Clemency and Pardons in Death Penalty Cases in Southeast Asia from 1975-2009, 2009</li> <li>● Rueben Ananthan Santhana Dass. Death Penalty in Malaysia: To Abolish or Not to Abolish, 2019</li> <li>● Thaatchaayini Kananatu. Framing Death Penalty Politics in Malaysia, 2022</li> </ul>
A brief historical background on the execution track	Malaysia has retained the death penalty from 1945 to the present day. Since 2018, the country has had an official moratorium on all executions. In 2023, Malaysia abolished the mandatory death penalty.
Briefly on the motivation for cancellation/refunds	In 2018, the Pakatan Harapan party won the election. The party included the intention to abolish the death penalty in its election campaign and executed it
Method of execution	Hanging
The last execution	On 24 May 2017, Yen Kar Moon was hanged for using a firearm in a robbery. On the same day, another unnamed man was hanged for murder, having been on death row for over 20 years.
Execution statistics	Reference
The latest public opinion poll	Public opinion poll, 2013



## Pakistan

Year of foundation/independence	1947 – independence from Great Britain
Status of the death penalty	Remains
Power structure	Federation
Regime	For 2023, authoritarian; according to the latest <i>Polity</i> measurements, has the lowest possible democratization score (-10 on a scale of -10 to +10)
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Islamic parliamentary republic
Religious status	The state religion is Islam, which underlies the country's legal system
Key legislation	1973 Constitution
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● Nadeem Farhat Gilani. Should Pakistan Abolish or Retain Capital Punishment? 2009</li> <li>● A Study of the Capital Jurisprudence of the Supreme Court of Pakistan, Reprieve, 2019</li> <li>● Death Penalty in Pakistan, Data Mapping Capital Punishment, Justice Project Pakistan, 2023</li> </ul>
A brief historical background on the execution track	Pakistan has retained the death penalty from 1945 to the present day. From 2008 to 2014, the country established an official moratorium on all executions. Executions resumed in 2014.
Briefly on the motivation for cancellation/refunds	In 2008, the <i>Pakistan People's Party</i> won the election. The party included the intention to abolish the death penalty in its election campaign
Method of execution	Hanging
The last execution	16 December 2019. A man was hanged for aiding terrorists who attacked an Army public school in December 2014, killing more than 150 people
Execution statistics	Reference
The latest public opinion poll	No



## Papua New Guinea

Year of foundation/independence	1975 – independence from Australia
Status of the death penalty	Abolished
Power structure	Unitary
Regime	For the year of abolition, closer to democracy; according to the latest <i>Polity</i> measurements, it has a democratization score of +5 out of a possible range of -10 to +10
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Constitutional monarchy (the monarch is the King of Great Britain)
Religious status	A secular state in which about 70% of citizens are Protestants
Key legislation	Constitution of 1975
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Second Optional Protocol to the International Covenant on Civil and Political Rights</li> <li>● Standing invitation for UN Special Procedures</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	There are about 800 languages in the country – because of this it is quite challenging to find the necessary documents in the latest version
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● Terence Wesley-Smith. Papua New Guinea in 1991: Problems of Law and Order, 1991</li> <li>● Murray Daniel Chisholm. Capital Punishment and Clemency in Papua New Guinea, 1954–1965, 2019</li> <li>● Daniel Pascoe, Andrew Novak. Holdouts in the South Pacific: Explaining Death Penalty Retention in Papua New Guinea and Tonga, 2022</li> </ul>
A brief historical background on the execution track	Papua New Guinea stopped practicing the death penalty in 1954. However, the death penalty was legislatively abolished for premeditated murder in 1974, but was reinstated in 1991. In 2022, the country abolished the death penalty for all crimes
Briefly on the motivation for cancellation/refunds	<p>In 1954, the executions stopped because PNG was a colony of Australia, and the latter was trying to show itself as a "peaceful colonizer" after the Telefomina killings</p> <p>In 1974, the formal abolition of the death penalty was also due to the strong administrative influence of Australia, which was still a metropolis for Papua New Guinea</p> <p>In 1991, Papua New Guinea returned executions due to political, economic, and social instability in the country</p> <p>In 2022, Papua New Guinea abolished the death penalty permanently for a variety of reasons – including a lack of infrastructure to carry it out</p>
Historical method of execution	Hanging
The last execution	November 1954
Execution statistics	No
The latest public opinion poll	Was conducted in the 1990s



## Philippines

Year of foundation/independence	1946 – independence from the USA
Status of the death penalty	Abolished
Power structure	Unitary
Regime	At the time of the abolition of the execution in 2006, democracy; according to the latest <i>Polity</i> measurements, had at that time a democratization score of +8 out of a possible range of -10 to +10
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Presidential Republic
Religious status	A secular state in which more than 80% of citizens are Catholic
Key legislation	1987 Constitution
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Standing invitation for UN Special Procedures</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	Tran Dang Ngoc Son – Nguyen Kim Minh Chau. Death Penalty: Maintenance or Removal Access from Singapore and Philippines Experience
A brief historical background on the execution track	The Philippines has abolished the death penalty for all crimes. The country first abolished the death penalty in 1987, but brought it back in 1993. In 2006, the Philippines abolished the death penalty for all crimes
Briefly on the motivation for cancellation/refunds	<p>In 1987, the Philippines abolished the death penalty as part of "restorative justice" after the fall of the Marcos regime. In 1993, the country brought back the death penalty because of Fidel Ramos' electoral program</p> <p>In 2006, the Philippines again abolished the death penalty as a way of showing its commitment to the rule of human rights</p>
Historical method of execution	Lethal injection
The last execution	In 1999, there were seven executions for drug-related offenses
Execution statistics	No
The latest public opinion poll	Public opinion <a href="#">poll</a> , 2019



## New Zealand

Year of foundation/independence	1986 – independence from Great Britain
Status of the death penalty	Abolished
Power structure	Unitary
Regime	At the time of the abolition of execution in 1989 and still considered a democracy; according to the latest <i>Polity</i> measurements, had the maximum democratization score (+10 on a scale from -10 to +10)
Level of economic prosperity	Advanced economies (IMF data for 2023)
Form of government	Constitutional monarchy (the monarch is the King of Great Britain)
Religious status	Secular state, almost half call themselves non-religious
Key legislation	Uncodified constitution
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Second Optional Protocol to the International Covenant on Civil and Political Rights</li> <li>● Standing invitation for UN Special Procedures</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	P. Engel. The abolition of capital punishment in New Zealand, 1935–1961, 1977
A brief historical background on the execution track	In 1941, New Zealand abolished the death penalty for premeditated murder. In 1950, the country brought back the death penalty. In 1961, the country again abolished the death penalty for premeditated murder, and in 1989, for all crimes
Briefly on the motivation for cancellation/refunds	The abolition (as well as the reintroduction) of the death penalty was largely due to the rise to power of a party whose election program included a promise to abolish (or, as the case may be, reinstate) the death penalty
Historical method of execution	Hanging
The last execution	On 18 February 1957, Walter Bolt was hanged for poisoning his wife Beatrice. It is believed that Bolt's death did not occur immediately: instead of breaking his neck the moment the trapdoor opened, Bolton was allegedly strangled slowly until dead
Execution statistics	<a href="#">Statistics</a>
The latest public opinion poll	Public opinion <a href="#">poll</a> , 2013



## Nepal

Year of foundation/independence	1923 – independence from Great Britain
Status of the death penalty	Abolished
Power structure	Federation
Regime	Was considered a democracy at the time of the final abolition of execution in 1990; according to the latest <i>Polity</i> measurements, it had a democratization score of +5 on a scale of -10 to +10. Now the country has a score of +7
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Parliamentary monarchy
Religious status	Secular state, more than 80% of the population is Hinduism
Key legislation	2005 Constitution
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Second Optional Protocol to the International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Few available sources on the death penalty
Main sources of information that we used in this Report	Pathways to Abolition of the Death Penalty, Cornell Law School, 2017
A brief historical background on the execution track	In 1946, Nepal abolished the death penalty for premeditated murder. In 1985, the country brought back the death penalty for certain types of murder and terrorism. In 1990, the country again abolished capital punishment for all offenses
Briefly on the motivation for cancellation/refunds	The reason for the abolition of the death penalty in 1946 was a 15-year experiment in which the number of serious murders remained unchanged despite the abandonment of executions. In 1985, due to growing pressure on the panchayat regime and bombings of government buildings, the death penalty was brought back for certain types of murders and terrorism. In 1990, the death penalty was abolished completely due to the change of political regime
Historical method of execution	No data
The last execution	9 November 1979
Execution statistics	No
The latest public opinion poll	No



## Marrocco

Year of foundation/independence	1956 – independence from France and Spain
Status of the death penalty	Remains, but not put into practice
Power structure	Unitary
Regime	At the time of the last execution in 1993, the country was considered authoritarian with a negative democratization score of –7 (on the <i>Polity</i> scale from –10 to +10). The country remains an authoritarian state today, but its indicators have slightly improved: the researchers now give it a –4
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Dualist monarchy
Religious status	Islam is the state religion
Key legislation	Constitution 2011
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● Crime and Justice: Abolition of the Death Penalty, 2007</li> <li>● Mia Barr. The Political Development of Capital Punishment in the Modern Moroccan State, 2020</li> <li>● Algeria, Morocco, Mauritania, Tunisia from Moratorium to Abolition of the Death Penalty. Together against the death penalty (ECPM), 2021</li> <li>● La peine de mort en droit et en Pratique. Together against the death penalty (ECPM), 2022</li> </ul>
A brief historical background on the execution track	Morocco has not applied the death penalty since 1993. Until 1993, when the last execution took place, the country maintained a 11-year moratorium (since 1982). Despite the moratorium, the country continues to impose death sentences – but not execute them.
Briefly on the motivation for cancellation/refunds	The exact and unambiguous reason for the moratorium is unknown. The only death penalty has taken place presumably because of the scale of the crime and the position of the accused in society
Method of execution	Firing squad
The last execution	In 1993, Police Commissioner Mustafa Thabet was executed over allegations of corruption, raping between 518 and 1,600 women, according to various estimates, and selling pornographic material abroad
Execution statistics	<a href="#">Source</a>
The latest public opinion poll	No



## France

Year of foundation/independence	Since 1958, it has existed as the Fifth French Republic
Status of the death penalty	Abolished
Power structure	Unitary
Regime	According to <i>Polity</i> 's measurements, the country is a full-fledged robust democracy. At the time of the abolition of the death penalty in 1981, it had a democratization score of +9 (out of a possible 10), today France has reached the maximum (10 out of 10)
Level of economic prosperity	Advanced economies (IMF data for 2023)
Form of government	Presidential-parliamentary republic
Religious status	A secular state with almost half of the population identifying themselves as belonging to no religion. 43% call themselves Catholics
Key legislation	Constitution of 1958
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Second Optional Protocol to the International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> <li>● Convention for the Protection of Human Rights and Fundamental Freedoms</li> <li>● Protocols No. 6 and 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms</li> </ul>
Jurisdiction of the regional human rights court	European Court of Human Rights
Availability of country information	Available
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● Robert Nye. Two Capital Punishment Debates in France: 1908 and 1981, 2003</li> <li>● Marie Gloris Bardiaux-Vaiente. Histoire de l'abolition de la peine de mort dans les six countries fondateurs l'Union européenne, 2015</li> </ul>
A brief historical background on the execution track	France completely abolished the death penalty in 1981
Briefly on the motivation for cancellation/refunds	France was the last Council of Europe country to apply the death penalty. The main reasons for its abolition were the rise to power of the Socialists and pressure from the Council of Europe, which demanded that all member countries of the organization remove the execution from their national legislation
Historical method of execution	Decapitation by guillotine
The last execution	In 1977, Tunisian national Hamida Jandoubi was hanged for the torture and murder of a female acquaintance
Execution statistics	Official <a href="#">statistics</a>
The latest public opinion poll	Public opinion <a href="#">poll</a> , 2014-2022



## Turkey

Year of foundation/independence	Since 1923, it has existed as the Republic of Turkey
Status of the death penalty	Abolished
Power structure	Unitary
Regime	According to <i>Polity</i> 's measurements, the country is currently an autocracy with a democratization score of -4 (between -10 and +10). At the time of the last execution (1984) and its official abolition (2004), the situation in Turkey was much better: the state had a score of +7
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Presidential Republic
Religious status	A secular state in which the majority professes Sunni Islam
Key legislation	Constitution of 1982
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Second Optional Protocol to the International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> <li>● Convention for the Protection of Human Rights and Fundamental Freedoms</li> <li>● Protocols No. 6 and 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms</li> </ul>
Jurisdiction of the regional human rights court	European Court of Human Rights
Availability of country information	Available
Main sources of information that we used in this Report	Gemalmaz M.S. The Death Penalty in Turkey (1920-2001): Facts, Truths and Illusions, 2002
A brief historical background on the execution track	From 1945 to 1973, Turkey retained the death penalty. Between 1973 and 1980, there was a <i>de facto</i> moratorium on executions: death sentences were carried out, but parliament did not approve them. Several dozen executions took place between 1980 and 1984. Since 1984, the country observed a <i>de facto</i> moratorium, and in 2004, officially abolished the death penalty for all crimes
Briefly on the motivation for cancellation/refunds	The moratorium and abolition of the death penalty are linked to the country's membership in the Council of Europe and desire to join the European Union
Historical method of execution	Hanging
The last execution	On 25 October 1984, Hidir Aslan was hanged for his participation in an illegal organization in opposition to the then government
Execution statistics	<a href="#">Statistics</a>
The latest public opinion poll	Public opinion <a href="#">poll</a> , 2019



## Kazakhstan

Year of foundation/independence	1991 – since the collapse of the USSR
Status of the death penalty	Abolished
Power structure	Unitary
Regime	According to <i>Polity</i> 's measurements, the country is an autocracy with a democratization score of -6 (ranging from -10 to +10) – it was relevant both at the time of the last execution and its legislative abolition
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Presidential Republic
Religious status	A secular state in which three-quarters of the population considers themselves Muslims
Key legislation	Constitution of 1995
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Second Optional Protocol to the International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	Terrorizm v Kazahstane: smertnaya kazn' ne reshenie problemy [Terrorism in Kazakhstan: The Death Penalty is Not the Solution], Penal Reform International, 2013
A brief historical background on the execution track	Between 1945 and 1991, Kazakhstan, then part of the USSR, retained the death penalty – as did all republics of the Union. From the collapse of the USSR until 2003, the country also used executions. A formal moratorium has been in place since 2003, and the country abandoned capital punishment altogether in 2022
Briefly on the motivation for cancellation/refunds	Among the reasons for the moratorium and abolition of the death penalty are: 1) Kazakhstan's desire to enter into international cooperation with other countries, 2) humanization of criminal legislation, and 3) reaction to a number of judicial errors
Historical method of execution	Firing squad
The last execution	November 2003
Execution statistics	No
The latest public opinion poll	Public opinion <a href="#">poll</a> , 2014



## Maldives

Year of foundation/independence	1965 – independence from Great Britain
Status of the death penalty	Remains, but not put into practice
Power structure	Unitary
Regime	No data
Level of economic prosperity	Transition and emerging economies (IMF data for 2023)
Form of government	Presidential Republic
Religious status	The state religion is Islam, which underlies the country's legal system
Key legislation	2008 Constitution
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
A brief historical background on the execution track	The country has maintained a <i>de facto</i> moratorium on executions since 1954, although such sentences continue to be handed down
Briefly on the motivation for cancellation/refunds	The Maldives moratorium may have been linked to regime change in its territory. Since about 2012, the Maldives has been vocal about the need to resume the death penalty. Among the reasons why the Maldives might take such a step are the increasing murder rate and the influence of Islam and its principles
Method of execution	Hanging, lethal injection
The last execution	1954
Execution statistics	No
The latest public opinion poll	No



## Great Britain

Year of foundation/independence	1707 – since the adoption of the Act of Union of England and Scotland
Status of the death penalty	Abolished
Power structure	Unitary
Regime	According to <i>Polity</i> 's measurements, the country is a democracy. At the time of the introduction of the moratorium and abolition of the death penalty in the 1960s, the UK's democratization score was the highest (+10 on the scale from -10 to +10), now it is +8.
Level of economic prosperity	Advanced economies (IMF data for 2023)
Form of government	Constitutional monarchy
Religious status	With a church with official status in the country – the Church of England, with the King as its secular head – the UK remains a secular state. Approximately 70% of the population (although estimates may vary) identify themselves as Christian
Key legislation	Uncodified constitution
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Second Optional Protocol to the International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> <li>● Convention for the Protection of Human Rights and Fundamental Freedoms</li> <li>● Protocols No. 6 and 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms</li> </ul>
Jurisdiction of the regional human rights court	European Court of Human Rights
Availability of country information	Available
Main sources of information that we used in this Report	<ul style="list-style-type: none"> <li>● Victor Bailey. <i>The Shadow of the Gallows: The Death Penalty and the British Labor Government, 1945–51</i>, 2000</li> <li>● Claire Langhamer. <i>The Live Dynamic Whole of Feeling and Behavior: Capital Punishment and the Politics of Emotion, 1945–1957</i>, 2012</li> <li>● The Abolition of the Death Penalty in the United Kingdom: How it Happened and Why it Still Matters. The Death Penalty Project, 2015</li> </ul>
A brief historical background on the execution track	The country imposed a moratorium on the death penalty in 1965 for common crimes and, in 1969, removed the death penalty for such acts from the law altogether. In 1998, the UK abolished the death penalty for all crimes
Briefly on the motivation for cancellation/refunds	One of the reasons for the country's abolition of the death penalty was the realization of the value of human life after World War II. A diverse pool of unrelated events, ranging from the Holocaust to a series of high-profile cases, contributed to this realization, prompting the public and politicians to rethink the practice of the death penalty. Politicians from the Labour government played a significant role in the abolition process
Historical method of execution	Hanging
The last execution	Peter Anthony Allen was hanged in Liverpool and Gwynne Owen Evans was hanged in Manchester. Both were convicted of the murder of John Alan West. The sentence was carried out on 7 April 1964
Execution statistics	<a href="#">Statistics</a>
The latest public opinion poll	Public opinion <a href="#">poll</a> , 2004



## South Korea

Year of foundation/independence	1945 – independence from Japan
Status of the death penalty	Remains, but not put into practice
Power structure	Unitary
Regime	According to <i>Polity</i> 's measurements, the country at the time of the actual moratorium is considered a democracy with a democratization score of +4 (on a scale of –10 to +10). Over the years, South Korea's score has risen to +8
Level of economic prosperity	Advanced economies (IMF data for 2023)
Form of government	Presidential Republic
Religious status	A secular state with 46% of the population believing they are not religious
Key legislation	Constitution of 1948
International treaties and status with international organizations	<ul style="list-style-type: none"> <li>● International Covenant on Civil and Political Rights</li> <li>● Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</li> <li>● Standing invitation for UN Special Procedures</li> </ul>
Jurisdiction of the regional human rights court	No
Availability of country information	Available
Main sources of information that we used in this Report	Sangmin Bae. South Korea's <i>de facto</i> Abolition of the Death Penalty, 2009
A brief historical background on the execution track	The country has maintained a <i>de facto</i> moratorium on executions 1997, prior to which the death penalty was applied. Death sentences continue to be imposed.
Briefly on the motivation for cancellation/refunds	The moratorium is linked to the transition to a democratic regime, the personal views of political leaders, and the desire for international cooperation
Historical method of execution	Hanging, lethal injection
The last execution	1997
Execution statistics	Statistics, 1948-1997
The latest public opinion poll	Public opinion poll, 2022



## Annex 2

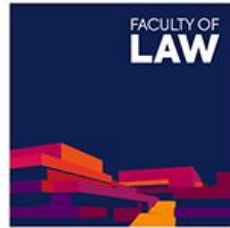
### Death Penalty in Russia — a review through the prism of international human rights law

In the second appendix to this study, our colleagues from the **University of Oxford** address the question of how international law views the possibility of a return to the death penalty after its *de facto* or *de jure* abolition, and examine Russia's current international legal obligations, including in the light of its withdrawal from the ECHR in 2022.

In this text, the authors provide a detailed analysis of the restrictions imposed on the Russian Federation by international conventions and explain why the political mechanisms for monitoring compliance are not sufficiently effective as a deterrent. They also clarify why international law does not establish an unequivocal prohibition on the reintroduction of the death penalty in Russia.

Some information has been removed from the Annex in compliance with the requirements of Russian legislation.





# Death Penalty in Russia

October 2024



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- The members of the Oxford Pro Bono Publico Executive Committee, **Professor Kate O'Regan**, **Helen Mountfield, KC** and **Dr Shreya Atrey**, and the members of the Student Committee, **Rosario Grimà Algora**, **Catherine Savard**, **Isabella Ruiz Dos Santos Miguel**, **Ashita Alag**, and **Emily Foale** for their support and assistance with the project.



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## Table of Contents

Contributors .....	1
Table of Contents .....	3
Executive Summary .....	1
List of Abbreviations.....	3
<b>QUESTION 1: DOES INTERNATIONAL LAW PROHIBIT CAPITAL PUNISHMENT OR ITS REINTRODUCTION ONCE ABOLISHED DE JURE OR DE FACTO?</b> .....	4
I. Introduction .....	4
II. Abolition <i>de facto</i> vs. Abolition <i>de jure</i> .....	5
III. International Treaty Law on the Death Penalty and Its Reintroduction .....	8
IV. International Norms on The Death Penalty and Its Reintroduction .....	12
V. Conclusion.....	13
<b>QUESTION 2: WHAT ARE RUSSIA’S OBLIGATIONS AFTER IT WITHDREW FROM THE EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR)?</b> .....	14
I. Introduction .....	14
II. Obligations Enforceable Against Russia.....	14
III. Possible Theoretical Constraints on Obligations Under ECtHR Judgments .....	16
IV. Practical Challenges to the Enforcement of ECtHR Decisions Against Russia from 16 March 2022.....	17
V. Conclusion.....	18



## Executive Summary

1. There is a *de facto* moratorium on the death penalty in Russia, yet some politicians have recently called for the return of the death penalty following the March 2024 terrorist attack at Crocus City Hall in Moscow.<sup>1</sup> Despite the increasing support for the death penalty among Russian political leaders, however, recent polling indicates significant differences in public support for the death penalty in Russia.<sup>2</sup> According to RBK Media Group, 43 percent of Russians surveyed in February 2022 were in favour of the death penalty, a decrease of 13 percent since 2009.<sup>3</sup> However, more recent polling by the Russian Field indicates that 53 percent of Russians surveyed are in favour of the death penalty.<sup>4</sup> These facts and more have prompted the Crew Against Torture (CAT) to request the OPBP to draft this report analysing Russia's international human rights obligations concerning the death penalty. Specifically, this report will outline Russia's responsibilities related to the potential reintroduction of the death penalty following its exit from the Council of Europe in 2022.
2. To provide a full understanding of Russia's international human rights obligation to maintain a moratorium on capital punishment, or even abolish the death penalty, this report examines the mandates arising from the International Covenant on Civil and Political Rights (ICCPR). First, it offers a brief account of the death penalty moratorium in Russia, beginning with the 1996 presidential moratorium declaration and its connection to the ECOSOC safeguards. The report then addresses Russia's obligations under international law following its withdrawal from the Council of Europe and its renouncement of the European Convention on Human Rights (ECHR).<sup>5</sup> The questions that this report answers are as follows:
  - Question 1: ***Does international law prohibit capital punishment or its reintroduction once abolished de jure or de facto?***

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<sup>1</sup> Katherine Brucker, 'On the Terrorist Attack at the Crocus City Hall in Moscow' (U.S. Mission to the OSCE, 11 April 2024) <<https://osce.usmission.gov/on-the-terrorist-attack-at-the-crocus-city-hall-in-moscow/>>; Elena Teslova, 'Russian Lawmakers Discuss Lifting Moratorium on Death Penalty After Concert Hall Attack' (Anadolu Agency, 27 March 2024) <<https://www.aa.com.tr/en/world/russian-lawmakers-discuss-lifting-moratorium-on-death-penalty-after-concert-hall-attack/3175831>>.

<sup>2</sup> The Advocates for Human Rights and The World Coalition Against the Death Penalty, 'Russian Federation Stakeholder Report for the United Nations Universal Periodic Review: The Death Penalty' (5 April 2023), <[https://www.theadvocatesforhumanrights.org/International\\_Submissions/A/Index?id=398](https://www.theadvocatesforhumanrights.org/International_Submissions/A/Index?id=398)>

<sup>3</sup> Lilia Pashkova, 'In Russia, for 13 Years, the Number of Supporters of the Death Penalty Has Decreased' (RBC News, 1 March 2022) <<https://www.rbc.ru/society/01/03/2022/621d63cb9a7947b6d560a333>>

<sup>4</sup> Russian Field, 'Restoration of the Death Penalty: The Attitude of Russians' (11 April 2024) <<https://russianfield.com/kaznitnelzya>>

<sup>5</sup> Council of Europe, 'The Russian Federation Is Excluded from the Council of Europe' (16 March 2022) <<https://www.coe.int/en/web/portal/-/the-russian-federation-is-excluded-from-the-council-of-europe>>



- Question 2: *What are Russia's international obligations after it withdrew from the European Convention on Human Rights (ECHR)?*



## **List of Abbreviations**

ACHR	American Convention on Human Rights
CAT	Crew Against Torture
CoM	Committee of Ministers
ECHR	European Convention on Human Rights
ECOSOC	United Nations Economic and Social Council
ECtHR	European Court of Human Rights
CCPR	United Nations Human Rights Committee / Committee on Civil and Political Rights
ICCPR	International Covenant on Civil and Political Rights
OHCHR	Office of the High Commissioner for Human Rights
UNCAT	United Nations Convention Against Torture
HRC	United Nations Human Rights Council



# QUESTION 1: DOES INTERNATIONAL LAW PROHIBIT CAPITAL PUNISHMENT OR ITS REINTRODUCTION ONCE ABOLISHED DE JURE OR DE FACTO?

## I. INTRODUCTION

3. As of 31 December 2023, 112 countries have abolished the death penalty *de jure* (in law) for all crimes, and 23 countries, including Russia, are considered abolitionist *de facto* (in practice).<sup>7</sup> As a prerequisite for joining the Council of Europe, Russia acceded to Protocol No. 6 of the ECHR, which provides for the abolition of the death penalty in peacetime.<sup>7</sup> President Boris Yeltsin issued a moratorium on the death penalty in August 1996.<sup>8</sup> However, executions were carried out between 1996 and 1999 in the Chechen Republic under Chechen *shari'a* law,<sup>9</sup> even as one international human rights organisation asserted that 'the Chechen Republic still remains bound by the international human rights obligations of the Russian Federation, including the [ICCPR] and the [UNCAT].'<sup>10</sup> Consequently, the Constitutional Court of Russia established an explicit moratorium in Russia on 2 February 1999 (on the basis that a jury trial is required in capital cases),<sup>11</sup> and reaffirmed this decision in 2009.<sup>12</sup> Additionally, on 3 June 1999, a presidential decree commuted the sentences of all persons on death row to either life or 25 years of imprisonment.<sup>13</sup> For the purposes of this report, it is important to note that Russia has never officially abolished the death penalty *de jure*. Thus, an objective of this report is to investigate whether international norms regarding the death penalty might apply to the Russian Federation and prohibit the reintroduction of capital punishment, even though it has never explicitly abolished the death penalty.<sup>14</sup>

<sup>7</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR).

<sup>8</sup> Presidential Decree No. 724 On the gradual decrease of the application of the death penalty in connection with accession to the Council of Europe 16 May 1996.

<sup>12</sup> Ruling No. 1344 (19 November 2009) of the Russia Constitutional Court.

<sup>13</sup> ICC Legal Tools, 'Death Penalty: Russian Federation' (2004) <<https://www.legal-tools.org/doc/a855a6/>>.

<sup>14</sup> Furthermore, the series of safeguards issued by the ECOSOC in 1984, designed to protect the rights of those facing the death penalty, likewise do not apply to Russia. See 'Safeguards guaranteeing protection of the rights of those facing the death penalty,' adopted by Economic and Social Council resolution 1984/50 (25 May 1984).



4. Russia's moratorium first came under scrutiny following Russia's abstention from the European Convention on Human Rights (ECHR) on 16 September 2022,<sup>15</sup> and then again on 28 February 2023, when it formally denounced (in law No. 43) the ECHR.<sup>16</sup> Russia's abstention and denunciation of the ECHR was prompted largely by the special military operation in Ukraine,<sup>17</sup> but some Russian scholars had begun to debate the possibility of reinstating the death penalty even before the conflict.<sup>18</sup>

## II. ABOLITION *DE FACTO* VS. ABOLITION *DE JURE*

5. Before addressing the restrictions that international law may impose on countries regarding their ability to reinstate the death penalty following *de jure* or *de facto* abolition, it is necessary to define these terms and provide a brief overview of the current debate surrounding what it means for a country to be abolitionist.
6. International organisations and non-governmental organisations, [REDACTED], have applied slightly different definitions as to what constitutes an abolitionist *de facto* (ADF) state. According to Roger Hood, an expert on the death penalty in international law, it is a UN criterion that a country should be considered ADF if it has not carried out an execution in at least 10 years.<sup>19</sup> [REDACTED] Despite being labelled 'abolitionist' (at least in part), however, ADF states remain problematic because they have yet to reform their laws

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<sup>15</sup> Registrar of the Court, 'The Russian Federation Ceases to Be a Party to the European Convention on Human Rights,' (ECtHR, 16 September 2022) <<https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7435446-10180882&filename=The%20Russian%20Federation%20ceases%20to%20be%20a%20Party%20to%20the%20European%20Convention%20on%20Human%20Rights.pdf>>.

<sup>16</sup> Konstantin Skoblik, 'The Human Rights Backlash in Criminal Justice: The Case of Russia's Exit from the European Convention on Human Rights' (*Blog of the European Journal of International Law*, 1 August 2023) <<https://www.ejiltalk.org/the-human-rights-backlash-in-criminal-justice-the-case-of-russias-exit-from-the-european-convention-on-human-rights/>>.

<sup>17</sup> Registrar, 'The Russian Federation' (n 15); see also Julia Crawford, 'Ukraine Vs Russia: What The European Court Of Human Rights Can (And Can't) Do' (Justiceinfo.net, 7 April 2022) <<https://www.justiceinfo.net/en/90187-ukraine-russia-european-court-of-human-rights-can-do.html>>.

<sup>18</sup> Ю В Голик, 'Вернется ли смертная казнь в Россию?' (2016) 7 *Lex Russica* 184. For a discussion about the effect of the Council of Europe on the death penalty in Russia, see Matthew Light & Nikolai Kovalev, 'Russia, the Death Penalty, and Europe: The Ambiguities of Influence' (2013) 29 *Post-Soviet Affairs* 6, 528.

<sup>19</sup> Roger Hood, 'The Enigma of De Facto Abolition of Capital Punishment' in R de Vicente Martínez, ed, *Libro homenaje al profesor Luis Arroyo Zapatero: un derecho penal humanista* (Agencia Estatal Boletín Oficial del Estado 2021), 931.

<sup>20</sup> Roger Hood, 'Staying Optimistic' in Lill Scherdin, ed, *Capital Punishment: A Hazard to a Sustainable Criminal Justice System?* (Ashgate Publishing 2014), 275.



and fully commit to abolition *de jure*, the absence of which some have argued makes it easier for these countries to return to conducting executions.<sup>21</sup>

7. The widespread practice of classifying countries as ADF both creates an impression of and pursues a path towards a global consensus on abolition. However, many death penalty scholars have emphasised the retentionist aspect of ADF states. Hood and Hoyle unambiguously define ADF countries as a subset of retentionist countries, or ‘suspended retentionists,’ since executions could resume, even after decades of disuse, in response to an uncertain political landscape or a heightened fear of egregious crimes.<sup>22</sup> This has led members of the UN Human Rights Committee (CCPR) to draw sharp distinction between ‘a mere moratorium’ and *de jure* abolition, and assert that ‘the distinction between abolition and a moratorium is decisive’.<sup>23</sup> While it is uncommon for states to reinstate executions, some academics reason that the likelihood of a state returning to executions is higher when it is ADF as opposed to abolitionist *de jure*.<sup>24</sup>
8. Elsewhere, researchers have also challenged the teleological assumption that ADF states are, by definition, progressing toward abolition.<sup>25</sup> In his most recent journal article, Ron Dudai identified a ‘classificatory fallacy,’ whereupon he argued that classifying states as ADF when they retain the death penalty but have not conducted executions in 10 years ‘serves to artificially define-down the prevalence of the death penalty in the contemporary world, thus making its imminent demise appear more plausible.’<sup>26</sup> He raises three critical points: first, he asserts that the ‘10-year without execution benchmark’ is arbitrary and affects ‘the distribution of advocacy resources and global attention, moral praise and condemnation’ on the issue of abolition.<sup>27</sup> Second, he describes how some countries which are ADF may still sentence people to death and retain large numbers of death row prisoners, which makes ‘the classification of such countries as belonging in the abolitionist camp questionable’.<sup>28</sup> Finally, Dudai contends that some ADF states may never progress to full abolition, despite the frequently cited assumption that they will, particularly given the number of jurisdictions that

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<sup>21</sup> *ibid*, at 286.

<sup>22</sup> Roger Hood & Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (Fifth edn, OUP 2015).

<sup>23</sup> CCPR, *Rolando v Philippines*, Communication No. 1110/2002.

<sup>24</sup> Ron Dudai, ‘Dead or Alive? Reassessing the Health of the Death Penalty and the Prospects of Global Abolition’ (2024) 28 *Theoretical Criminology* 139, 146; Roger Hood, ‘Staying Optimistic’ in Lill Scherдин, ed, *Capital Punishment: A Hazard to a Sustainable Criminal Justice System?* (Ashgate Publishing 2014), 279.

<sup>25</sup> Roger Hood, ‘The Enigma of De Facto Abolition’ (n ?); Ron Dudai, ‘Symbolic Laws, De Facto Abolitions and Path Dependence: When Death Penalty Policies Remain Stable’ (2023) 62 *Howard J of Crime and Justice* 11; Dudai, ‘Dead or Alive?’ (n 24).

<sup>26</sup> Dudai, ‘Dead or Alive?’ (n 24), 141.

<sup>27</sup> *ibid*, 145.

<sup>28</sup> *ibid*.



‘[resume] executions after a 10-year lull, following a change of government or policy ... [such as] Bahrain, [Burma,] Chad, Guinea, Qatar, [and] St Kitts and Nevis’.<sup>29</sup>

9. Russia exemplifies death penalty scholars’ concerns about ADF states since it has yet to remove the death penalty from its own law.<sup>30</sup> The Russian Criminal Code currently permits the death penalty as punishment for the following offences: murder, genocide, and attempted murder of either a judge, police officer or state official.<sup>31</sup> This has led some government officials to assert that Russia maintains the death penalty, but they have disagreed over the precise domestic legal measures to reinstate it. In a plenary session on 26 March 2024, Vyacheslav Volodin, the Chairman of the State Duma, argued that a decision from the Constitutional Court could easily reinstate capital punishment in Russia, since it had not been formally abolished: ‘Nobody has abolished the death penalty in our Constitution or in our criminal legislation. There is a decision by the Constitutional Court that postponed the issuance of such a sentence. Therefore, no referendums are needed; a decision by the Constitutional Court on this issue is sufficient [to reinstate the death penalty].’<sup>32</sup> In June, the head of Russia’s Investigative Committee, Alexander Bastrykin, also urged for the reinstatement of capital punishment, but called for a presidential decree: ‘I have been told by some competent, qualified lawyers that we need to change the constitution -- that we need to hold a referendum -- but I believe that we should simply lift the moratorium on the death penalty by presidential decree’.<sup>33</sup> Despite statements such as this, it remains unclear whether Russia will reintroduce the death penalty, as the Kremlin spokesman Dmitry Peskov has repeatedly declined invitations from senior officials to broach the subject.<sup>34</sup>
10. Although there is political interest in reintroducing the death penalty in Russia, the country’s commitments under international treaty law pose a major obstacle to reinstating capital punishment, a position once championed by Constitutional Court president Valery Zorkin.<sup>35</sup> As will be discussed next, Russia is a signatory to several international agreements. Until recently, it was a signatory to

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<sup>29</sup> *ibid*, 146.

<sup>30</sup> Viktoria Sergeyeva and Alla Pokras, ‘The Abolition of the Death Penalty and Its Alternative Sanction in Eastern Europe: Belarus, Russia and Ukraine’ (Penal Reform International 2012), 5.

<sup>31</sup> Reuters, ‘Kremlin: We Are Not Joining Death Penalty Debate After Concert Hall Attack’ *Reuters* (25 March 2024) <<https://www.reuters.com/world/europe/kremlin-we-are-not-joining-death-penalty-debate-after-concert-hall-attack-2024-03-25/>>.

<sup>32</sup> Polina Khimshiashvili, ‘Senators and Deputies Argue Over Methods of Returning the Death Penalty’ *RBC* (26 March 2024) <<https://www.rbc.ru/politics/26/03/2024/6602aa3e9a7947876fdf080f>>.

<sup>33</sup> Agence France Presse, ‘Putin Urged to Reinstate Death Penalty By Russia’s Chief Investigator’ *Barron’s* (28 June 2024) <<https://perma.cc/GL2J-MNMQ>>.

<sup>34</sup> Reuters (n 31).

<sup>35</sup> Agence France Presse, ‘Constitutional Court Forbids Use of the Death Penalty’ *France24* (19 November 2009) <<https://www.france24.com/en/20091119-court-russia-death-penalty-moratorium-justice-international-law-constitutional>>.



the ECHR, which advocates for the abolition of capital punishment. While Russia suspended its membership in the Council of Europe in 2022,<sup>36</sup> it remains bound by many of these international legal commitments, and as such, reintroducing the death penalty would likely provoke international condemnation. Additionally, public opinion within Russia remains divided on the issue, with some advocating for the return of capital punishment as a measure against serious crimes, while others emphasise the risks of judicial errors and the importance of upholding human rights standards.<sup>37</sup> Thus, while the legal and political frameworks exist for potentially reinstating the death penalty, significant domestic and international challenges make the permissibility of its reintroduction uncertain.

### **III. INTERNATIONAL TREATY LAW ON THE DEATH PENALTY AND ITS REINTRODUCTION**

11. There are various international instruments that address the imposition of the death penalty, namely the ACHR, the ECHR, and the ICCPR. This wealth of international norms now informs the restrictions on the death penalty and its reintroduction, following either *de jure* or *de facto* abolition.
12. Given its scope, this report is mainly concerned with the international instruments to which Russia is still subject, namely, (1) the ECHR<sup>38</sup> and (2) the ICCPR, though the ACHR clarifies how some states have abolished the death penalty as a matter of human rights. As such, any consensus that can be found across frameworks will be helpful in identifying the relevant international norms concerning the reintroduction of the death penalty for this report. All three instruments recognise a universal right to life which cannot be arbitrarily denied.<sup>39</sup>
13. The ACHR prohibits the death penalty and is the only instrument which explicitly addresses the reintroduction of the death penalty.<sup>40</sup> In countries which have not yet abolished capital punishment, the ACHR allows for its use only in cases involving the most serious crimes and never for those involving defendants under 18 years of age, over 70 years of age, or who are pregnant women.<sup>41</sup> In 1990, a protocol calling for the abolition of the death penalty was added to the ACHR, but it allows

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<sup>36</sup> Council of Europe (n 5).

<sup>37</sup> Pashkova (n 3); Russian Field (n 4).

<sup>38</sup> As addressed in Question 2 of this report, Russia's actions prior to 16 September 2022 remain constrained by the ECHR.

<sup>39</sup> ECHR (n 7), art 2; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art 6; American Convention on Human Rights (adopted 22 November 1969) (ACHR), art 4.

<sup>40</sup> ACHR (*ibid*), art 4(3).

<sup>41</sup> *ibid*, art 4(2) & (5).



countries to retain the death penalty at the time of ratification or accession so that it may be applied in time of war ‘in accordance with international law’ for serious military crimes.<sup>42</sup> Initially, the ECHR imposed a similar set of restrictions and exemptions, but was eventually amended to require total abolition. Protocol No. 6 of the ECHR originally required abolition but allowed States to make exceptions for acts committed in ‘time of war or of imminent threat of war.’<sup>43</sup> However, the later adopted Protocol No. 13 removed this exception, and now calls for total abolition.<sup>44</sup> Russia signed but did not ratify Protocol No. 6 and never signed nor ratified Protocol No. 13.<sup>45</sup> Additionally, considering Russia’s exit from the Council of Europe and its denunciation of the ECHR, some argue that Russia has ‘absolved itself from an obligation to [honour] the Protocol’s [No. 6] object and purpose.’<sup>46</sup>

14. The ICCPR, which Russia signed and ratified in the 1970s, allows for the use of the death penalty *in countries which have not yet abolished it* as punishment for only the most serious crimes and mandates procedural safeguards to prevent its arbitrary use.<sup>47</sup> The CCPR has stated that the ability of states to use the death penalty when they have not yet abolished it in law must be read restrictively.<sup>48</sup> Thus, the category of ‘most serious crimes’ can only refer to ‘crimes of extreme gravity involving intentional killing.’<sup>49</sup> This means that any crime that does not ‘[result] directly and intentionally in death’ cannot be used as grounds for the lawful imposition of the death penalty.<sup>50</sup> The ICCPR also bans the death penalty’s use completely for those under the age of eighteen at the time of the offence and for pregnant women, new mothers, and those who become insane.<sup>51</sup> The CCPR has also elaborated that the death penalty should not be used on those for whom execution would result in exceptionally severe consequences for them or their families, such as those who have previously suffered human rights violations or those with very young or dependent children.<sup>52</sup>

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<sup>42</sup> *ibid*, art 2.

<sup>43</sup> ECHR (n 7), Protocol, arts 1-2.

<sup>44</sup> *ibid*, Protocol 13, ETS 187.

<sup>45</sup> Bakhtiya Tuzmukhamedov, ‘Doing Away with Capital Punishment in Russia: International Law and the Pursuit of Domestic Constitutional Goals,’ in Anthea Roberts & others, eds, *Comparative International Law* (OUP 2018).

<sup>46</sup> Sergei Korotkov, ‘Capital Punishment in Vladimir Putin’s Russia’ *Human Rights Foundation* (May 3, 2024), <<https://hrf.org/capital-punishment-in-vladimir-putins-russia/>>.

<sup>47</sup> ICCPR (n 38), art 6(2).

<sup>48</sup> CCPR, ‘General comment No. 36 on Article 6: right to life’ (3 September 2019) UN Doc CCPR/C/GC/36, at para 33.

<sup>49</sup> *ibid*, at para 35.

<sup>50</sup> *ibid*.

<sup>51</sup> ICCPR (n 38), art 6(5).

<sup>52</sup> CCPR, ‘General comment No. 36’ (n 48), para 50.



15. In addition to the fair trial guarantees provided by Article 14 of the ICCPR, Article 6 sets out procedural protections specific to the use of the death penalty, which have been further developed in CCPR jurisprudence. Before its imposition, a ‘competent’ court must consider the personal circumstances of the offender and their offence, meaning it cannot be mandatory.<sup>53</sup> Additionally, the death penalty cannot be retroactively applied to offences committed prior to those crimes being deemed capital-eligible crimes.<sup>54</sup> Moreover, Article 6 states that only competent, independent courts established by law within the judiciary can sentence individuals to death,<sup>55</sup> meaning courts of customary justice do not possess the power to hand out death sentences. Throughout the entirety of the proceedings, the individuals must have had effective legal representation.<sup>56</sup> The death penalty must also only be carried out after the death-sentenced individual has had the opportunity to resort to all appeal procedures, and must not be carried out in the existence of international measures requiring a stay of execution.<sup>57</sup> Under paragraph 4 of Article 6, States are required to allow individuals sentenced to death to seek a pardon or commutation of their sentence, and must not carry out the death sentence until such requests have been ‘meaningfully considered.’<sup>58</sup> Finally, even where not covered by Articles 6 or 14, certain procedural flaws could render the imposition of the death penalty contrary to Article 6, such as failure to inform foreign nationals in detention of their right under the Vienna Convention on Consular Relations to consular notification.<sup>59</sup>
16. Two decades following the ICCPR’s adoption, the Second Optional Protocol to the ICCPR was adopted, which prescribes the complete abolition of the death penalty for its parties.<sup>60</sup> Russia never signed onto this protocol.<sup>61</sup> The optional protocol allows for a reservation to be made at the time of ratification or accession, wherein the death penalty can be used in times of war as punishment for the most serious of military crimes.<sup>62</sup> However, ICCPR’s Article 6(2) provides a basis for the prohibition of reintroduction where capital punishment has been abolished *de jure*. Article 6(2) prohibits the death penalty for those countries which have not yet abolished it. The UN Human Rights Council (HRC) has confirmed that this means that parties which have abolished the death

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<sup>53</sup> *ibid*, citing *Lubuto v Zambia*, (1990) CCPR Communication No. 390/1990.

<sup>54</sup> ICCPR (n 38), art 6(2).

<sup>55</sup> CCPR, ‘General comment No. 36’ (n 48), para 45.

<sup>56</sup> *Clarence Marshall v Jamaica*, (1998) CCPR Communication No. 730/1996.

<sup>57</sup> CCPR, ‘General Comment No. 36’ (n 48), para 46.

<sup>58</sup> *ibid*, para 47, citing *Chikunova v Uzbekistan*, (2002) CCPR Communication No. 1043/2002.

<sup>59</sup> *ibid*, para 42.

<sup>60</sup> Second Protocol to the International Covenant on Civil and Political Rights (adopted 15 December 1989) UNGA Res 44/128.

<sup>61</sup> Tuzmukhamedov (n 45).

<sup>62</sup> Second Protocol to the ICCPR (n 60), art 2.



penalty, either through domestic law, by signing onto the second optional protocol, or by becoming party to another international instrument which prohibits the death penalty, are prohibited from reintroducing it.<sup>63</sup>

17. For countries which have signed onto the Second Optional Protocol abolishing the death penalty, reintroduction is a violation of international law.<sup>64</sup> The CCPR has also taken the position that where countries have not yet abolished the death penalty, it is contrary to Article 6 to issue death sentences except in cases involving ‘the most serious crimes’, as mandated by the prohibition on the arbitrary deprivation of life contained in Article 6(1).<sup>65</sup> This could also mean that the reinstatement of the death penalty after its *de facto* abolition would violate Article 6, as it would increase the rate of executions,<sup>66</sup> but the CCPR has not yet had occasion to consider this argument. In *Judge*, the CCPR determined that any abolitionist country which ‘[exposes] a person to the risk of facing capital punishment in another country’ violates Article 6 of the Optional Protocol to the ICCPR. In this same case, the CCPR makes it clear that states which have not abolished the death penalty are permitted to impose it in the enumerated exceptions.<sup>67</sup> Notably, the CCPR did not expound upon its definition of “abolitionist” in this case. In *Rolando v Philippines*, the majority opinion of the CCPR once again missed an opportunity to clearly define “abolitionist” and avoided addressing the question of reintroduction, finding a violation of Article 6 on the ground that the death penalty was mandatorily imposed for a certain type of offence, regardless of the seriousness.<sup>68</sup> Dissenting in part, three of the CCPR members argued that whether the death penalty could be legally reintroduced in the Philippines would depend on whether the country had abolished capital punishment *de jure* in 1987, distinguishing a moratorium from abolition sharply.<sup>69</sup>
18. The reintroduction of the death penalty in Russia is therefore prohibited under the ICCPR in two possible scenarios: (1) the CCPR expands its interpretation of Article 6 beyond the limits imposed in *Judge*, adopting the view that any extension of the use of the death penalty constitutes a violation, or (2) the CCPR finds Russia’s moratorium to constitute abolition for the purposes of Article 6 as

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<sup>63</sup> See, for example, HRC, ‘Capital Punishment and the Implementation of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty: Yearly Supplement of the Secretary-General to His Quinquennial Report on Capital Punishment (2019) UN Doc A/HRC/42/28. The HRC has reiterated this idea in multiple reports; see also *Roger Judge v. Canada*, (1998) CCPR Communication No. 829/1998.

<sup>64</sup> HRC, Resolution 54/35 (2023) UN Doc A/HRC/RES/54/35.

<sup>65</sup> CCPR, ‘General comment No. 36’ (n 48).

<sup>66</sup> HRC, ‘Capital Punishment’ (n 63).

<sup>67</sup> *ibid.*

<sup>68</sup> *Rolando* (n 23).

<sup>69</sup> *ibid.* These same members concluded that the Philippines had abolished the death penalty, as it had not been in its legislation at all for a period of six years.



defined in *Judge*. We find the latter to be highly unlikely given the fact that the death penalty remains in the Russian Criminal Code.

19. Taken together, the ECHR and the ICCPR suggest an international commitment to the abolition of the death penalty, coupled with a recognition of States' desire to maintain the right to apply the death penalty in certain circumstances. The ICCPR, which Russia has ratified, prohibits the reintroduction of the death penalty once abolished *de jure*. As discussed above, there also appears a possibility that the ICCPR prevents the reversal of *de facto* abolition.

#### IV. INTERNATIONAL NORMS ON THE DEATH PENALTY AND ITS REINTRODUCTION

20. It has not been established that customary international law would prohibit the use of the death penalty.<sup>70</sup> International customary law does, however, recognize the abolition of torture, which some contend could be the foundation for abolition as an international norm, if the death penalty can be established as an act of torture.<sup>71</sup> In 2012, the UN Special Rapporteur on Torture stated that there appears to be an emerging trend among States whereby the death penalty is considered to be in violation of the prohibition against torture or cruel, inhuman or degrading treatment.<sup>72</sup> Such a norm still remains to be recognised as part of international customary law. In 2019, the HRC wrote that 'considerable progress' has been made towards establishing an agreement on this topic among the States Parties to the Second Optional Protocol.<sup>73</sup>
21. While customary international law remains silent on abolition, norms do exist concerning the limitations of capital punishment. All States, regardless of their treaty obligations, are required to limit the death penalty to the most serious crimes committed by individuals other than minors and may only impose it after ensuring that the defendant has had a fair and independent trial.<sup>74</sup> As this

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<sup>70</sup> William A Schabas, 'International law and the abolition of the death penalty,' in Carol S Steiker & Jordan M Steiker, eds, *Comparative Capital Punishment* (Edward Elgar Publishing Limited 2019).

<sup>71</sup> *ibid*.

<sup>72</sup> Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/67/279.

<sup>73</sup> CCPR, 'General comment No. 36' (n 48) para 51.

<sup>74</sup> Schabas, (n 69), citing 'National report submitted in accordance with para 5 of the annex to Human Rights Council resolution 16/21, Malaysia,' UN Doc. A/HRC/WG.6/17/MYS/1; 'National report submitted in accordance with para 5 of the annex to Human Rights Council resolution 16/21, China,' UN Doc. A/HRC/WG.6/17/CHN/1; 'National report submitted in accordance with para 5 of the annex to Human Rights Council resolution 16/21, Singapore,' UN Doc. A/HRC/WG.6/24/SGP/1.



applies to all States, it prevents those States which have *de facto* abolished the death penalty from reintroducing it indiscriminately.

## V. CONCLUSION

22. The international treaty norms and customary norms currently binding Russia do not explicitly prohibit the reintroduction of the death penalty following *de facto* abolition, though they do impose certain restrictions. Additionally, it could be argued that evolving treaty norms may eventually prohibit the reintroduction of the death penalty, whether a State is ADF or abolitionist *de jure*. Under international treaty norms, if Russia were to reintroduce the death penalty, it could only do so for the most serious crimes and would be prohibited from imposing it retroactively or as a mandatory punishment. Russia would also be required to adhere to the ICCPR's strict procedural norms regarding the death penalty and would be barred from sentencing certain categories of individuals. There is an argument that the ICCPR could entirely prevent Russia from reintroducing the death penalty, as this would conflict with the CCPR's current interpretation of Article 6. However, at present, established international customary norms do not impose additional restrictions on Russia's reintroduction of the death penalty.



## **QUESTION 2: WHAT ARE RUSSIA'S OBLIGATIONS AFTER IT WITHDREW FROM THE EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR)?**

### **I. INTRODUCTION**

23. Russia ceased to be a member of the Council of Europe on 16 March 2022,<sup>75</sup> and a High Contracting Part of the ECHR on 16 September 2022. The Vienna Convention on the Law of Treaties provides that once a State ceases to be a party to a treaty, it also ceases to be bound to observe the substantive obligations of that treaty.<sup>76</sup> Therefore, having ceased being a party to the ECHR, Russia is no longer bound by the text of the ECHR. At the time of Russia's withdrawal, however, more than 17,000 applications were pending against Russia.<sup>77</sup>
24. As will be explained below, Russia still retains certain obligations which stem from the judgments on these applications following its withdrawal from the ECHR.<sup>78</sup> Some authors argue that the ECtHR still retains the authority to address applications against Russia for actions or omissions that may violate the Convention if they occurred before 16 September 2022 or are still ongoing.<sup>79</sup>
25. However, the Vienna Convention does not clearly address Russia's obligations stemming from ECtHR decisions, although some have questioned the extent of obligations that can be imposed on Russia under these judgments. In the following sections, we outline the obligations enforceable against Russia and then expand on the types of obligations arising from ECtHR judgments against Russia, which have been the subject of close scrutiny. Finally, we address the main practical challenges to executing ECtHR decisions against Russia after its exclusion from the CoE.

### **II. OBLIGATIONS ENFORCEABLE AGAINST RUSSIA**

26. According to Article 58 of the ECHR, the denunciation of this convention 'shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in

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<sup>75</sup> Registrar of the Court, 'The Russian Federation Ceases to Be a Party' (n 15).

<sup>76</sup> Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 70.

<sup>77</sup> Kirill Koroteev, 'Moving On in Strasbourg: How to Deal with the Russian Retreat from the European Court of Human Rights' (Verfassungs Blog, 12 December 2022) <<https://verfassungsblog.de/moving-on-in-strasbourg/>>.

<sup>78</sup> ECHR (n 7), arts 46(1), 58.

<sup>79</sup> Andrew Drzemczewski and Rick Lawson, 'Exclusion of the Russian Federation from the Council of Europe and the ECHR: An Overview' (2024) 21 Baltic Yearbook of International Law Online 38, 59-62.



respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective.<sup>80</sup> Based on this provision, the ECtHR declared that it remains competent to process applications against Russia concerning acts or omissions which occurred prior to 16 September 2022.<sup>81</sup> In other words, Russia remains obligated to comply with judgments related to actions or omissions that occurred before it ceased to be a party to the ECHR on September 16, 2022, even if those judgments are issued after that date.

27. Some suggestions have been put forth on how to process the remaining cases without engagement from Russia and without a national judge. These include a 'business as usual' approach (this is the presently adopted approach); delivering judgements on a select few cases; suspension of the adjudication of all pending applications against Russia until the situation changes, and; striking out of all pending cases against Russia.<sup>82</sup>
28. The ECtHR has already decided several cases against Russia after its withdrawal from the ECHR. The Court has established specific rulings for such cases in an attempt to avoid procedural obstacles. First, the Court shall only analyse acts or omissions which took place before 16 September 2022. Second, since it is now impossible to appoint a Russian judge to examine such cases, the Court shall appoint an *ad hoc* judge among the sitting judges to render judgements in the cases against Russia. Finally, the Court may examine the applications, even if the Russian authorities do not cooperate with it. In such cases, the absence of cooperation does not automatically lead to acceptance of the applicant's claims, but there should be enough evidence that the claim is well-founded in fact and law.<sup>83</sup>
29. The issue remains, however, regarding the implementation of the Court's rulings by the Russian Federation after its expulsion from the CoE. Although, in theory, Russia has an international obligation to comply with the Court's decisions concerning acts and omissions performed before its

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<sup>80</sup> ECHR (n 7), art 58(2).

<sup>81</sup> ECtHR, 'Resolution of the European Court of Human Rights on the Consequences of the Cessation of Membership of the Russian Federation to the Council of Europe in light of Article 58 of the European Convention on Human Rights' (ECtHR Plenary Session, 22 March 2022) <[https://www.echr.coe.int/documents/d/echr/Resolution\\_ECHR\\_cessation\\_membership\\_Russia\\_CoE\\_ENG](https://www.echr.coe.int/documents/d/echr/Resolution_ECHR_cessation_membership_Russia_CoE_ENG)>.

<sup>82</sup> Kanstantin Dzehtsiarou, 'The Range of Solutions to the Russian Cases Pending Before the European Court of Human Rights: Between "Business as Usual" and "Denial of Justice"' (ECHR Blog, 16 August 2022) <<https://www.echrblog.com/2022/08/the-range-of-solutions-to-russian-cases.html>>.

<sup>83</sup> Registrar of the ECtHR, 'Latest Rulings by the European Court Set Out the Procedure for Future Processing of Applications Against Russia' (3 February 2023) ECHR 036 <<https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7559628-10388013&filename=Future%20processing%20of%20applications%20against%20Russia.pdf>>.



withdrawal from the ECHR, there are still theoretical and practical barriers to executing the ECtHR decisions against Russia. First, it is not clear what obligations can be imposed against Russia now that the country is no longer a party to the ECHR. Second, current international law enforcement mechanisms make execution difficult in the face of the country's lack of cooperation.

### III. POSSIBLE THEORETICAL CONSTRAINTS ON OBLIGATIONS UNDER ECtHR JUDGMENTS

30. There remains uncertainty about the extent of obligations the ECtHR can impose on Russia after 16 September 2022. While it is clear that individual measures, such as financial compensation for victims of rights violations, still apply, concerns have been raised about the ECtHR's authority to impose general measures on a country that is no longer a party to the Convention. Unlike individual measures, which aim to address the specific applicant's case, general measures are intended to prevent future violations and could include actions like legislative amendments.
31. In his dissenting opinion in *Fedotova and Others*, Judge Krzysztof Wojtyczek questioned whether Russia is still required to adopt general measures to prevent further rights violations from an international law standpoint.<sup>84</sup> He held that Russia's departure from the ECHR means that any future-looking measures under Article 46(1) are irrelevant, though it will [remain] responsible for the possible violations of Convention rights which might have occurred before [16 September 2022].<sup>85</sup> According to Wojtyczek, Russia's departure means that further violations cannot occur, as the country no longer has any obligations to breach.
32. Furthermore, in the same dissent, Wojtyczek argued that any judgments issued against Russia where it did not appear before the ECtHR—that is, in all judgements rendered after 16 September 2022—lack precedential value and cannot be used as a basis for opposing others.<sup>86</sup>
33. Nonetheless, it is important to emphasise that these concerns were raised in a dissenting opinion by a single ECtHR judge. According to the rest of the judiciary, however, Russia remains obligated to implement all measures—whether general or individual—imposed by the Court in decisions related to matters that occurred before 16 September 2022.

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<sup>84</sup> *Fedotova and Others v Russia – separate opinions, dissenting opinion of Judge Wojtyczek* App Nos 40792/10, 30538/14, 43439/14 (ECtHR, 17 January 2023), para 4.2.

<sup>85</sup> *ibid.*

<sup>86</sup> *ibid.*



#### IV. PRACTICAL CHALLENGES TO THE ENFORCEMENT OF ECTHR DECISIONS AGAINST RUSSIA FROM 16 MARCH 2022

34. Russia has increasingly indicated its refusal to implement ECtHR judgments,<sup>87</sup> and even prior to its expulsion from the CoE, in 2015, it adopted a law allowing it to disregard rulings from the ECtHR if they are deemed incompatible with the Russian Constitution.<sup>88</sup> Russia's exclusion from the CoE added extra barriers to executing ECtHR rulings in the country.
35. On 15 March 2022, just one day before the official procedure to expel the Russian Federation from the CoE began, Russia's Minister of Foreign Affairs sent a letter notifying the CoE of the country's decision to withdraw from the organisation. As a result, although the ECtHR considers that the Russian Federation remained a contracting party to the ECHR until 16 September 2022,<sup>89</sup> there is still some debate over whether Russia withdrew or was expelled from the CoE, and, consequently, about the exact date it ceased to be a state party to the ECHR.<sup>90</sup>
36. Following its notification to withdraw from the CoE, Russia ceased most communications with the ECtHR and the Committee of Ministers of the CoE.<sup>91</sup> Russia also revised its legislation to exclude the use of European Court decisions as a basis for reopening criminal proceedings, stipulating that only ECtHR rulings in force before 16 March 2022 would be enforced domestically.
37. Russia also revised its legislation to prevent any European Court decision from being used as a basis for reopening criminal cases, specifying that only ECtHR rulings that were in effect before 16 March 2022 would be enforced domestically.<sup>92</sup> This reflects Russia's reluctance to comply with any ECtHR decisions issued after 15 March 2022, or even those delivered before this date but finalised after its withdrawal from the Council of Europe.

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<sup>87</sup> Agnieszka Kubal and Marcin Mrowicki, 'Pushback or Backlash against the European Court of Human Rights? A Comparative Case Study of Russia and Democratically Backsliding Poland' (2024) 9 *Russian Politics* 135.

<sup>88</sup> BBC, 'Russia Puts Its Law Above European Court Rulings' *BBC News* (14 July 2015) <<https://www.bbc.com/news/world-europe-33521553>>; see also Ivan Kleimenov, 'Judgment of the Constitutional Court of the Russian Federation No 12-P/2016: Refusal to Execute Judgments of ECHR or the Search for Compromise between Russian and International Law?' (2016) 32 *Questions of International Law* 19.

<sup>89</sup> ECtHR, 'Resolution of the European Court' (n 81).

<sup>90</sup> Drzemczewski & Lawson (n 78), 49-54

<sup>91</sup> Ausra Padskocimaite, 'Execution of the ECtHR's judgments against Russia: Some legal (and political) aspects' (Strasbourg Observers, 15 May 2023) <<https://strasbourgobservers.com/2023/05/15/execution-of-the-ecthrs-judgments-against-russia-some-legal-and-political-aspects/>>.

<sup>92</sup> Olga Sadovskaya, 'Russia: Victims of Human Rights Violations Had a Last Resort in Europe. Not Anymore' *OMCT World Organisation Against Torture* (15 September 2022) <<https://www.omct.org/en/resources/blog/russia-victims-of-human-rights-violations-had-a-last-resort-in-europe-not-anymore>>.



38. One example of this is the *Denis Kuzminas* case, the first ECtHR ruling against Russia to come into force after 15 March 2022.<sup>93</sup> The ECtHR's decision in *Kuzminas v Russia* awarded the applicant €2,000 due to an illegal search and was issued on 21 December 2021.<sup>94</sup> However, since the judgement became final on 21 March 2022, it is unenforceable domestically under the new Russian legislation. Consequently, it is unlikely that Russia will pay the compensation awarded to the applicant by the ECtHR, even though the Court determined that Article 8 of the ECHR was violated.<sup>95</sup> Olga Sadovskaya, a Russian lawyer, affirms that there are approximately 20 cases in the same situation.<sup>96</sup>
39. The Committee of Ministers of the CoE continues to supervise Russia's execution of the ECtHR's judgments and regularly informs the Russian authorities of the decisions and resolutions adopted during the Committee of Ministers' Human Rights meetings.<sup>97</sup> Also, due to the lack of cooperation from Russia, the Committee of Ministers of the CoE is continuously seeking new strategies to ensure the execution of the Court's judgments by the Russian Federation. That includes strengthening cooperation with other international organisations, especially the UN human rights treaty bodies, and civil society to ensure Russia's compliance with human rights obligations.<sup>98</sup> So far, however, none of these strategies seem to have increased the chances of enforcement of the ECtHR's decisions by the Russian Federation.

## V. CONCLUSION

40. According to the Secretary General of the CoE, the Russian Federation is legally obligated to implement all judgements and decisions issued by the ECtHR related to its actions or omissions occurring up until 16 September 2022.<sup>99</sup> These legal responsibilities are supported by Article 70 of the Vienna Convention on the Law of Treaties 1969, which states that while the termination of a treaty releases the parties from further performance of the treaty, it does not alter any rights or

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<sup>93</sup> *Kuzminas v. Russia*, App No 69810/11 (ECtHR, 21 December 2021).

<sup>94</sup> *ibid*, para. 33

<sup>95</sup> Sadovskaya (n 92).

<sup>96</sup> *ibid*.

<sup>97</sup> See letters sent on 9 December 2022, 9 March 2023 and 7 June 2023: <<https://rm.coe.int/letter-for-the-attention-of-mr-sergey-lavrov-minister-for-foreign-affa/1680a956f6>; <https://rm.coe.int/letter-from-the-secretary-general-marija-pejcinovic-buric-to-sergey-la/1680ab87a2>; <https://rm.coe.int/20230309-letter-for-the-attention-of-mr-sergey-lavrov/1680aa823f>>.

<sup>98</sup> CoE Committee of Ministers, '3rd Strategy paper regarding the means to ensure implementation of judgments of the Court with respect to the Russian Federation' (26 September 2023) CM/Inf/DH(2023)22 <<https://rm.coe.int/0900001680ac7760>>.

<sup>99</sup> Marija Pejčinović Burić, 'Secretary General: Millions of Russians no longer protected by the European Convention on Human Rights' *Council of Europe* (12 September 2022) <[https://search.coe.int/directorate\\_of\\_communications/Pages/result\\_details.aspx?ObjectId=0900001680a807f8](https://search.coe.int/directorate_of_communications/Pages/result_details.aspx?ObjectId=0900001680a807f8)>.



obligations established before the termination.<sup>100</sup> Therefore, even after Russia's withdrawal from the ECHR, it remains bound to fulfil the obligations related to actions or omissions that occurred before the withdrawal took effect.

41. However, as this section has discussed, significant challenges remain in enforcing these obligations, and there are limitations to the extent in which the CoM can encourage Russia's compliance. Specifically, the CoM cannot impose financial sanctions on Russia and must '[rely] on 'soft' measures to pressure and/or persuade the state to comply with [ECtHR] judgement[s]'.<sup>101</sup> However, as one author points out, '[s]ince the most serious sanctions of suspension and expulsion [from the CoE] are no longer relevant, any 'soft' measures at the CoM's disposal are likely to remain symbolic and futile.'<sup>102</sup> This situation is further complicated by Russia's lack of communication with the CoM since 3 March 2022.<sup>103</sup> The absence of dialogue and formal engagement between Russia and the CoM limits the CoM's ability to apply diplomatic pressure effectively, making it even more challenging to ensure that Russia adheres to its international obligations.
42. Moreover, while individual measures, such as compensation for victims, are clearer in terms of enforcement, the effectiveness of general measures, which aim to prevent future violations, is in question given Russia's withdrawal from the ECHR. Additionally, Russia's new legal provisions and reduced cooperation with international bodies further impede the implementation of both individual and general measures. The uncertainty surrounding the scope of obligations following Russia's withdrawal from the ECHR, combined with its legislative changes to domestic law and its reluctance to cooperate, has ultimately complicated the execution of ECtHR decisions.
43. As the international community continues to seek ways to ensure compliance, there is little evidence to suggest that Russia will cooperate with any of its remaining obligations under the ECHR, and there are few external factors that can encourage this cooperation. The ongoing efforts of the CoM and other international organisations highlight the persistence of these challenges and the need for innovative approaches to uphold human rights standards despite Russia's absence from the CoE and non-compliance with the ECHR.

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<sup>100</sup> Vienna Convention (n 76), art 70.

<sup>101</sup> Padskocimaite (n 91).

<sup>102</sup> *ibid.*

<sup>103</sup> CoE Committee of Ministers, 'Strategy Paper Regarding the Supervision of the Execution of Cases Pending Against the Russian Federation' (8 December 2022) CM/Inf/DH(2022)25, <<https://search.coe.int/cm?i=0900001680a91beb>>.



44. Lastly, regarding the reintroduction of the death penalty in Russia, the international community, including human rights organisations and the CoM, would likely continue to monitor and address such developments, advocating for adherence to the fundamental human rights principles established by the ECHR despite Russia's formal withdrawal from the CoE.<sup>104</sup> The reintroduction of the death penalty appears to be in clear violation of Russia's previous commitments under the ECHR, but would not directly fall under the purview of the ECtHR. As such, the reintroduction of the death penalty would undermine Russia's previous commitments under the ECHR, in addition to its standing within the global human rights community.

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<sup>104</sup> In line with this, it is the position of the UN Special Rapporteurs on the subjects of the death penalty and torture that 'it is almost impossible for States to impose the death penalty while complying with human rights obligations', which suggests abolition, and at the very least, the maintenance of any abolitionist *de facto* status. See Morris Tidball-Binz & Alice Jill Edwards, 'UN Experts Call for Universal Abolition of the Death Penalty,' (9 October 2023), online: <<https://www.ohchr.org/en/press-releases/2023/10/un-experts-call-universal-abolition-death-penalty>>.



## About this text

The Report is updated as of 1 October 2024

The original study, published in Russian, can be downloaded [here](#). The translated English version of the report was published in September 2025

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### Citations

Crew Against Torture. (2025). *Inevitable or improbable? The Crew Against Torture has researched how and why states abolish, retain and reimplement the death penalty—And now explain whether Russia could lift its moratorium* (p. 125) [Analytical report]. <https://pytkam.net/research/no-category/smertnaja-kazn-issledovanie-komandy-protiv-pytok/>.

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