

Penal Reform International

Training Resource: Reporting on the death penalty

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Acronyms used

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| ACHR | American Convention on Human Rights |
| CRC | Convention on the Rights of the Child |
| ECHR | European Convention on Human Rights |
| ECOSOC | United Nations Economic and Social Council |
| EOHR | Egyptian Organisation for Human Rights |
| EU | European Union |
| GA | General Assembly |
| ICCPR | International Covenant on Civil and Political Rights |
| IPS | Inter Press Services |
| LWOP | Life without the possibility of parole |
| MENA | Middle East and North Africa |
| NACDL | National Association of Criminal Defence Lawyers |
| NGO | Non-governmental organisation |
| OSCE | Organization for Security Cooperation in Europe |
| PRI | Penal Reform International |
| Safeguard | Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty |
| SMR | Standard Minimum Rules for the Treatment of Prisoners |
| UDHR | Universal Declaration on Human Rights |
| UN | United Nations |
| US | United States |
| WCADP | World Coalition Against the Death Penalty |

Introduction

About Penal Reform International

Penal Reform International (PRI) is an international, non-governmental organisation (NGO) with Consultative Status at the United Nations Economic and Social Council (ECOSOC) and Council of Europe, and Observer Status with the African Commission on Human and Peoples' Rights. It aims to develop and promote international standards for the administration of justice, reduce the unnecessary use of imprisonment and promote the use of alternative sanctions which encourage reintegration while taking into account the interests of victims.

About this resource

This resource is part of a series of three training resources produced as part of PRI's programme of work which seeks to achieve the progressive abolition of the death penalty and implement alternative sanctions that respect international human rights. The innovative two-year programme, undertakes as one of its tasks to build the capacity of key stakeholders, decision-makers and local civil society organisations working on the death penalty and alternative sanctions such as life and long-term imprisonment.

PRI's programme of work will be implemented in nineteen countries across PRI's five regions worldwide¹.

This resource targets journalists. The aim of this resource is to build and strengthen the knowledge and raise awareness of how to report on the death penalty and alternative sanctions. This training resource has been developed in conjunction with PRI's partner, Inter Press Service (IPS).

PRI has also prepared support and reference material in the form of information packs, one on the death penalty and another on alternative sanctions. These information packs address the key issues and arguments that are fundamental to the abolition of the death penalty and the promotion of alternative sanctions. The information packs have been produced in Arabic, English, French and Russian.

This training resource has been produced with the financial assistance of the European Union (EU). The contents of this document are the sole responsibility of PRI and can in no circumstances be regarded as reflecting the position of the EU.

April 2011



¹ Central Asia, East Africa, Eastern Europe, Middle East and North Africa and South Caucasus.

How to use this resource and guidance on training techniques

NOTE: You may have received this training resource as part of your participation in a PRI training session. The substance of this section on training techniques will not form part of your training. This section is designed to be used specifically for the trainers and for the training of trainers.

How to use this resource

This resource is designed to represent the basic knowledge and information needed to conduct a training workshop on a given topic in an easily accessible format. Each section includes “essential principles” that relate either to the body of international and/or regional law on the topic, or to selected best practices where they are available to demonstrate implementation. Each section will include a series of discussion questions and case studies that can be adapted for use in training activities.

This resource is intended to be adapted and modified based on thorough data-gathering and preparation that precedes every training workshop.

Training courses must be designed in such a way as to facilitate their flexible use, without imposing a single rigid focus or approach. Courses must be adaptable to the particular culture, educational, regional and experiential needs and realities of a diverse range of potential audiences within the target group.

Trainings should be constructed in self-contained modules, allowing appropriate selection and tailoring according to particular needs and objectives.

Guidance on training techniques

Training should be based on clearly articulated objectives. The objectives of the trainer should facilitate satisfaction of the needs of the trainee. At the beginning of your training ask participants what they intend to get out of the training, write down objectives, and go back to them between session.

Three basic learning objectives should form the foundation of such programmes and mirror the following needs of the trainees:

1. **To receive information and knowledge** for the work of the trainees in their professions.
2. **To acquire or reinforce skills**, so that the functions and duties of the professional group can be fulfilled effectively. Simple knowledge of standards is not enough to enable trainees to transfer these rules into appropriate professional behaviour. The acquisition of skills should be viewed as a process whereby skills are fine-tuned through practice and application. This process may need to be continued, in the light of training needs identified in specific areas of the trainees’ work, including through appropriately tailored follow-up programmes.
3. **To become sensitised, i.e. to change negative attitudes or reinforce positive attitudes and behaviour**, so that the trainees accept, or continue to accept, the need to promote and protect human rights through their work, and actually do so in the course of their duties. The question at issue is the **values** of the trainee. This, too, is a long-term process, to be reinforced by further, more technical, training.

Thus, to be effective, training should be aimed at improving knowledge, skills and attitudes in order to contribute to appropriate professional behaviour.

For maximum effect, a few basic principles should be kept in mind:

Interaction: This programme implies the use of a participatory, interactive training methodology. For effective training, participants should be fully involved in the process. As practitioners, the trainees will bring to the course a rich pool of experience, which must be actively drawn on to make an interesting and effective course.

Flexibility: It is not advisable to adopt a “military” approach in an attempt to force trainees to participate. The result of such techniques is, more often than not, resentment among trainees and, consequently, the closing of effective avenues of communication between trainer and trainees. While a certain level of control must be maintained by the trainer, the first rule should be flexibility. Questions – even challenges – from the audience should be welcomed, and should be addressed by trainers in a positive and forthright manner. Similarly, excessively rigid timekeeping can leave participants feeling frustrated and resentful and should be avoided.

Relevance: The unspoken question of the trainee throughout the course will be: “What does this have to do with my daily work?” The extent to which the trainer continuously answers this question will be an important measure of his or her success. Every effort must therefore be made to ensure that all material presented is relevant to the work of the audience, and that such relevance is made clear where it is not self-evident. This task may be easier when operational themes are being addressed. It may require more careful preparation, however, with respect to more topical themes, such as the protection of especially vulnerable groups.

Variety: To secure and retain the active commitment of participants, it is best to vary the teaching techniques used throughout the course. Most adults are not accustomed to long classroom sessions, and a tedious and monotonous routine will leave them more conscious of the classroom than of the subject matter. A varied selection of techniques should be used, alternating discussion with role-playing and case studies with brainstorming, as appropriate to the subject matter.

The following methods and approaches can be adopted:

Presentation of standards: A short presentation on the human rights standards or best practices relevant to a given aspect of the work of the profession, and on how such standards can be effectively applied by the audience.

Application of participatory techniques: Enables participants to use their knowledge and experience to translate into practice the ideas and concepts referred to in the presentation; and also enables them to consider the practical implications of human rights

standards for their day-to-day work.

Focus and flexibility: Enables participants to focus on matters of real and current concern; and enables educators and trainers to adapt to participants’ needs as the course progresses.

Participatory techniques include:

Presentation and discussion: Following a presentation, an informal discussion is useful to clarify points and facilitate the process of translating ideas into practice. Such discussions are conducted by the presenter, who should try to involve all participants. It is useful for presenters to have a prepared series of questions available to initiate the discussion. At the conclusion of the presentation and discussion, the presenter should provide an overview or summary. Presentations should be supplemented with pre-prepared visual aids or study materials distributed in advance to all participants.

Working groups: These are created by dividing a course into a number of small groups of a maximum of five or six participants. Each group is given a topic to discuss, a problem to solve or something concrete to produce, within a short time period. The course is then reconvened and the results of the deliberations of each group are presented to the full class by a spokesperson for the group. Participants can then discuss the topics and the response of each group.

Case studies: In addition to dealing with discussion topics, working groups can consider case studies. These should be based on credible and realistic scenarios which are not too complex and which focus on two or three main issues. Case studies should require participants to exercise their professional skills when responding to them and to apply human rights standards or best practices.

Problem-solving / brainstorming: These sessions can be conducted as intensive exercises to seek solutions to both theoretical and practical problems. They require a problem to be analysed and then solutions to be developed. Brainstorming encourages and requires a high degree of participation and stimulates those involved to maximum creativity. The group should make recommendations and takes decisions on the problem. The learning or sensitisation process occurs as a result of the group discussion around each suggestion.

Simulation / role-playing: Simulation or role-playing exercises may be used to practise a skill or to enable participants to experience hitherto unfamiliar situations. This technique is particularly valuable for sensitising participants to the feelings and perspectives of other groups and to the importance of certain issues.

Visual aids: Adult learning can be enhanced by the use of blackboards, overhead transparencies, posters, displayed objects, flip charts, photographs, slides and videos / films.

What is expected of a trainer?

Trainers should create their own targeted presentation notes and materials, based on the content of these prepared training resources and information packs and the particular realities on the ground. A few basic pointers should be kept in mind:

- Make eye contact with participants.
- Encourage questions and discussion.
- Do not read from your notes – be conversational and natural, speaking in a clear and animated voice.
- Watch the time – time your presentation beforehand and keep a clock or watch in view while you are making it.
- Move around – do not present from your chair. When responding to a question, approach the person who asked it. If someone seems inattentive, approach and speak directly to him or her.
- Use visual aids.
- Do not criticise – correct, explain and encourage.
- Have participants use the written materials provided – for example, make them look up standards and then read them out to the class (this teaches them how to find the human rights “rules” by themselves when the course is finished and they have returned to their duty stations). Materials which are not opened during the course are likely never to be opened.
- Be honest.
- Facilitate the participation of individuals who tend not to speak up. Draw them out with direct questions and then acknowledge the value of their comments. Pay particular attention to ensuring equal participation by women and members of minority groups.
- Do not let discriminatory, intolerant, racist or sexist remarks pass without comment. Address them as

you would address any other issue encountered during discussions, i.e. calmly, tactfully, directly and substantively. Point out the relevant standards and explain why they are important for the effective performance of the work of the relevant profession, and the role they play in fostering professionalism within those groups. Be prepared in advance to counter myths and stereotypes with facts.

- If you are confronted with a question which you are not prepared to respond to, refer to one of the other presenters (if there is one), or to the audience, or to the materials, or offer to provide the answer later (and be sure to follow up as promised).
 - Use repetition – people forget.
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Guide:

How to report on the death penalty

1.1 Purpose

The media plays a very important role in society, and is essential to a democracy. The media keeps the public informed of what is happening in the world and at a local level. The flow of information facilitates debates and informs peoples' opinion.

The media has a responsibility to report unbiased, accurate information as received from reliable sources. However, it is important that the media doesn't just report facts and statistics that an average person may not understand, but weeds out important issues and points, putting them in a context that the average reader can make sense of in order to form their own opinions.

Importantly, the media is viewed as having a watchdog function. The media informs the public about what their governments are doing, and has the capacity to hold governments accountable, forcing them to justify their actions and decisions. In a democratic society, people should know all their options if they are to govern themselves, and the media is a vehicle for the dissemination of such information. Media can affect change, both on a social and governmental level.

In reporting on the death penalty, the media has to tackle a number of issues. It has to understand the human rights implications of the death penalty and its alternative sanctions, as well as their country's criminal justice policies. Furthermore, the media have to be able to tackle controversial subjects underlying the use of the death penalty, in particular society's attachment to this form of punishment, and in some societies, its religious implications. As such, reporting on the death penalty is not always a straight-forward process, and journalists should take a nuanced approach.

1.2 Learning objectives

- To demonstrate to journalists how to unravel the issues underlying the death penalty and find compelling story angles.
 - To provide legal definitions to assist journalists and to ensure their story stands up to scrutiny.
 - To provide journalists with various sources of information.
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1.3 Target audience

Journalists.

1.4 Essential principles

(i) Main legal arguments

- A. The death penalty violates the fundamental right to life, as laid down in article 3 of the Universal Declaration of Human Rights (UDHR).
 - B. The death penalty violates the right not to be tortured or subject to any cruel, inhuman or degrading punishment (article 5, UDHR).
 - C. The death penalty is the ultimate cruel, inhuman and degrading punishment, which has never been shown to deter criminal behaviour more effectively than other punishments. The death penalty represents an unacceptable denial of human dignity and integrity. It is irrevocable, and where criminal justice systems are open to error or discrimination, the death penalty will inevitably be inflicted on the innocent.
 - D. International human rights law does not expressly prohibit the death penalty. However the International Covenant on Civil and Political Rights (ICCPR), a legally-binding treaty, limits the categories of person who may be sentenced to death and the circumstances under which capital punishment may be imposed or carried out. The ICCPR states that the penalty of death may only be applied for the 'most serious crimes' (article 6(2)) – this should be interpreted in the most restrictive and exceptional manner possible.
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- E. The Second Optional Protocol to the ICCPR explicitly provides for the abolition of the death penalty (article 1). It commits state parties not to execute and to take all necessary measures to abolish the death penalty within its jurisdiction.
- F. United Nations General Assembly (UN GA) resolutions 62/149 (2007), 63/168 (2008) and 65/206 (2010) call for a moratorium on the use of the death penalty. The 2007 resolution was adopted by 104 votes in favour, 54 against and 29 abstentions. The 2008 resolution was adopted by 106 countries voted in favour, 46 against and 34 abstentions. The 2010 resolution was adopted by 109 countries in favour, 41 against and 35 abstentions. These resolutions are not legally binding on states, but represent the changing momentum at the international political level toward the abolition of the death penalty.
- G. States that retain the death penalty are required under international law to observe a number of restrictions and limitations on its use. These restrictions and limitations have been set out in a number of international treaties and documents, most notably in the ICCPR, the Convention on the Rights of the Child (CRC) and the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty² (Safeguards). This includes:
- The death penalty may be imposed only for the *most serious crimes* prescribed by law at the time of its commission (article 6(2) ICCPR and Safeguard 1 and 2).
 - Sentence of death may not be imposed for crimes committed by persons below 18 years of age (article 6(5) ICCPR, article 37(a) CRC and Safeguard 3).
 - Sentence of death may not be carried out on pregnant women (article 6(5) ICCPR and Safeguard 3) or on new mothers (Safeguard 3).
 - Sentence of death may not be carried out on people who have become insane (Safeguard 3).
 - Sentence of death may only be carried out pursuant to a final judgement rendered by a competent court (article 6(2) ICCPR and Safeguard 5).
 - Fair trial guarantees must be observed, including the presumption of innocence, the minimum guarantees for the defence and the right to adequate legal assistance at all stages of the proceedings (article 14 ICCPR and Safeguard 5).
- Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts (Safeguard 4).
 - There is a right to review by a court of higher jurisdiction (article 14(5) ICCPR and Safeguard 6).
 - There is a right to seek pardon or commutation of the sentence (article 6(4) ICCPR and Safeguard 7).
 - Capital punishment shall not be carried out pending any appeal, pardon or commutation procedure (Safeguard 8).
 - Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering (Safeguard 9).
- H. Beyond international law, some regions have taken a more determined step to restrict and abolish the death penalty. Protocols No. 6 (1982) and 13 (2002) to the European Convention on Human Rights (ECHR) provide for the total abolition on the death penalty. The 1990 Protocol to the American Convention on Human Rights (ACHR) calls on parties to abolish the death penalty in all peacetime circumstances. In fact, the ACHR itself goes beyond international norms and standards. Article 4 places severe restrictions on states' ability to impose the death penalty, including no reinstatement once abolished, not to be used for political offences, and not to be used against those over 70 years of age. Resolutions 42 (1992) and 136 (2008) of the African Commission on Human and Peoples' Rights calls on all state parties to the African Charter on Human and Peoples' Rights to observe a moratorium on the death penalty.
- (ii) A quick guide to the death penalty and alternative sanctions**
- A. There has been a global trend towards the abolition of the death penalty and a restriction in the use of capital punishment over the last fifty years. However, despite the encouraging trend, a large number of executions are still being carried out and many countries retain the death penalty *de facto* or in their legislation.

² Approved by Economic and Social Council resolution 1984/50 of 25 May 1984.

- B. According to the 8th UN Secretary-General's report on the death penalty (18 December 2009: covering the period 2004-2008), 149 states and territories in the world are abolitionist in law or in practice. This breaks down as: 95 states and territories are abolitionists in law for all crimes, 8 states and territories are abolitionists in law for ordinary crimes (death penalty retained for exceptional circumstances in time of war, such as military offences and treason), and 46 states and territories are *de facto* abolitionists (have not enforced the death penalty for 10 years or more). 47 states and territories retain the death penalty.
- C. Many states have ratified international and regional instruments that provide restrictions on the use of the death penalty and its ultimate abolition. In total, some 81 countries have bound themselves to the abolition of capital punishment by ratifying or acceding to an international treaty (this includes ratification or accession to the second optional protocol to the ICCPR, Protocols 6 and 13 ECHR, the ACHR and the Protocol to the ACHR).
- D. The abolition of the death penalty has played a significant role in the increased use of life imprisonment sentences, and life without parole (LWOP) in particular. Life sentences without the possibility of parole should not be used for any category of offender. The removal of the possibility of release not only amounts to inhuman and degrading treatment or punishment, but consequently removes the recognition of the potential for rehabilitation or reform of the offender, and is thus in contravention of articles 10(1)³ and 10(3)⁴ of the ICCPR. All prisoners should have the right to parole, and release from prison should be determined by the risk they present to society rather than politically driven factors. States should implement a case-by-case approach to sentencing, and abolish mandatory or indiscriminate sentences.
- E. The sentencing of juveniles to LWOP is a violation of the CRC (article 37) and the ICCPR (article 6).
- F. Prisoners on death row or those serving life sentences are often detained in conditions that are often far worse than those for the rest of the prison population and more likely to fall below international human rights standards. This often includes isolation for long and indeterminate periods of time, inactivity and inadequate basic physical provisions. The UN *Standard Minimum Rules for the Treatment of Prisoners*⁵ (SMR) aims to minimise the suffering of prisoners under sentence of death or life imprisonment and to avoid any exacerbation of such suffering. States have an obligation to ensure that treatment of life and long-term prisoners held during moratorium and after abolition are in line with international human rights standards and norms.
- G. For further information on standards and norms related to the death penalty and alternative sanctions, please see Penal Reform International's two information packs on the *Death Penalty* and *Alternative Sanctions to the Death Penalty*.
- (iii) Why is the death penalty controversial? Understanding common myths and clichés**
- A. Governments and the public often see the death penalty as a necessary solution to solving the problem of violent crime, drug offences or terrorist activity. However there has never been any empirical data which supports the argument that the threat of execution deters crime. In fact, many crimes are committed in the heat of the moment, leaving very little opportunity for criminals to be influenced about potential punishments. In terms of acts of terrorism, it should be noted that many terrorists act with the knowledge that they themselves will be killed. Furthermore, executions of such people often provide welcome publicity for the groups they belong to and create martyrs around which further support may be rallied for their cause.
- B. The death penalty often diverts resources away from more effective measures to reduce criminal behaviour, such as tackling the socio-economical drivers of crime or underlying drug problems within society, or by providing more police resources to investigate criminal behaviour. It creates a culture of violence and vengeance in society through the use of state sanctioned killing.

³ All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

⁴ The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.

⁵ Adopted by the first UN Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

- C. Proponents of the death penalty do so in the name of the victims. They argue that victims of violent crime and their loved ones have a right to see justice carried out through the execution of the perpetrator. However, not only does this argument undermine the voices of those victims who oppose the death penalty, it also perpetuates the myth that justice is focused upon the idea of revenge rather than based upon the principles of deterrence, rehabilitation, public safety and justice. The understandable anger that victims feel towards the perpetrators cannot be used to justify the violation of the human rights of those convicted of these crimes. While we recognise the suffering of victims of violent crime and their loved ones, all victims, including those who openly oppose the death penalty, should be treated with sympathy, respect and equality throughout the criminal process. Unfortunately, victims who oppose the death penalty are often marginalised and discriminated against. This includes not receiving full access to relevant victims' assistance funds, not being fully informed of relevant court proceedings by prosecutors or even being excluded from giving testimony. In the US, the campaign group Murder Victims' Families for Human Rights have become a powerful voice against executions.
- D. The death penalty also creates additional victims who are often forgotten, marginalised or stigmatized in their communities – the family members of those who have been executed. When an individual is executed, little thought is given to the suffering or support of their families.
- E. Often religion plays a very important role in the justification for the death penalty, particularly in the Middle East and North African region (MENA). However, the interpretations of the Quran reflected in national laws in the MENA region often exaggerate the legitimacy of the death penalty and execution under Sharia law. According to Islamic Sharia Law, the application of the death penalty should be restricted to a very limited number of cases and impose strict conditions related to the infallibility of the witnesses, the absolute fairness of the judges, and even then to leave room for possible forgiveness and reconciliation.
- F. In some countries a system allows relatives of the murder victim's family to waive the death penalty for free, or in return for financial compensation – otherwise known as diya or “blood money” in the MENA region – or set any condition they see fit. The blood money is paid in compensation for the killing, thereby foregoing the execution. Such systems make the administration of the death penalty arbitrary and discriminatory in the extreme. It is arbitrary because those accused of similar crimes can be treated differently from each other. The person guilty of murdering the relative of a merciful family is not executed, while someone whose victim's family is less forgiving is executed, despite all other elements of the crime being similar. It is discriminatory because those with money are more likely to be able to tempt the families of the victims into accepting a large payment. The relatives of those murdered have every right to expect to see those guilty of inflicting such harm held to account by a fair judicial process. But allowing them to influence the judicial process risks the removal of one of the central tenets of modern jurisprudence: that everyone stands equal before the law.
- G. International norms and standards require that executions are carried out in a humane way, so as not to inflict unnecessary suffering. Whether the state employs hanging, electrocution, shooting, lethal injection, gas asphyxiation or stoning as its form of execution, like all physical forms of torture, it involves a deliberate assault on a prisoner. Simply put, there is no humane way to put someone to death. It is not possible to find a way to execute a person which is not cruel, inhuman or degrading.
- H. Finally, those states that continue to sentence people to death and execute them do not always provide comprehensive and timely statistical information on the application of the death penalty. If capital punishment is a legitimate act of government, then there is no reason for its use to be hidden from the public and international scrutiny. Governments should work toward increased transparency and accountability in the imposition of the death penalty and alternative sanctions.
- (iv) Potential story angles for journalists**
- A. How arbitrary or discriminatory is the application of the death penalty? Does it disproportionately impact society's 'other' such as the poor,

indigenous people, ethnic, sexual and religious minorities, and other vulnerable groups such as those with mental health problems or learning disabilities?

- B. How many crimes are death penalty applicable i.e. violent crimes, drug offences, acts of terrorism, organised crime? What constitutes a 'serious crime'? Does a state have a large number of death penalty application crimes on the statute books?
- C. Are human rights defenders who work on the abolition of the death penalty harassed or intimidated? How have they been threatened? Who has targeted them (state officials or the public)? Has the state put in place measures to protect human rights defenders?
- D. Does religion have a positive / negative impact on the application of the death penalty for example, how is Sharia law interpreted across the MENA region, what does the Catholic Church say on this issue of the death penalty, how is the issue of forgiveness dealt with?
- E. Is the right to a fair trial being upheld? For example, is there access to a competent lawyer, have there been any significant delays in the judicial process, is there access to relevant court papers, can witnesses be cross-examined, do judges act with independence and impartiality, is the hearing public, is there a provision to appeal the verdict? If possible, use actual cases to emphasise your points.
- F. Are there any cases of innocent people on death row who have been improperly or illegally convicted? Are there any case stories of exonerees – could they be interviewed?
- G. What is the effect of sentencing policies and guidelines on the application of the death penalty i.e. is the death penalty a mandatory or discriminatory sentence, is there a 'three-strikes-and-you're-out' policy, does the court permit evidence to mitigate the sentence? How does this policy positively / negatively affect the death penalty? If possible, use actual cases to emphasise your points.
- H. How are vulnerable individuals being treated (at both the sentencing and enforcement stage)
- in death penalty cases, and cases that apply alternative sentences i.e. treatment of juveniles (under the age of 18), pregnant women or women with young children, the elderly and the mentally-ill?
- I. What are prison conditions like? Consider issues such as conditions of death row and time spent on death row; overcrowding of prisons; use of solitary confinement; implementation of the Standard Minimum Rules for the Treatment of Prisoners; rehabilitation programmes for life and long-term sentenced prisoners; and public monitoring programmes of prisons.
- J. What are the means and methods of carrying out executions? Is this a form of torture, or cruel and inhuman punishment? How is death penalty equipment manufactured, and who is supplying it (government of a commercial enterprise)? Who carries out the execution? Who is the executioner, and what is the effect of executing individuals on prison officials?
- K. What effect does the death penalty have on society? How does this provide justice to victims of crime? What rights do victims have in the justice system? Are there victims who are willing to forgive, or who oppose the application of the death penalty? What about other victims, such as the family members of executed prisoners?
- L. How does the death penalty impact society in terms of cost? What is the cost of the death penalty? What is the cost of alternative sanctions, such as life or long-term imprisonment?
- M. Have there been any notable cases of state pardons or clemency? Do pardon and clemency processes adhere to due process or are they purely discretionary? Have there been any examples of arbitrary or discriminatory pardons or clemency?
- N. Consider any regional and/or international trends (statistics, legislation, treaties, case law etc.) in the death penalty, and how these might/should impact at the national level.
- O. Has a moratorium been put in place? Does this moratorium cover both sentencing of the death penalty and carrying out executions? Are prisoners still being kept on death row? Have

prisoners been re-sentenced? Are there processes in place to eventually turn the moratorium to abolition? How has the government voted in the past UN GA moratorium resolutions, and are they likely to change their mind for the next resolution?

- P. How transparent is the government in publishing comprehensive and timely information on the application of the death penalty or alternative sanctions of life or long-term imprisonment? What sort of information is being published, and how regularly?
- Q. Are there processes to ensure that state officials involved in the death penalty are held accountable for its application for example, holding the police, prosecutors, prison officials and guards accountable? Is there public confidence in the system?

(v) How to identify sources of information

- A. Relevant sources of information can include: NGOs, human rights activists, coalitions against the death penalty, academics, parliamentarians, judges, lawyers, prison officials and guards, death row inmates and lifers, victims, religious leaders, international governmental organisations (such as the UN, the African Commission on Human and Peoples' Rights, the European Parliament, the Organisation for Security Cooperation in Europe (OSCE), and the Inter-American Commission on Human Rights).
- B. Useful websites for further information:

Inter-governmental organisations

- African Commission on Human and Peoples' Rights (Working Group on Death Penalty): http://www.achpr.org/english/info/index_Death%20penaltyUnder_en.htm
- Council of Europe: http://www.coe.int/t/dc/files/themes/peine_de_mort/default_en.asp
- European Commission: http://ec.europa.eu/external_relations/human_rights/adp/index_en.htm
- European Court of Human Rights: <http://www.echr.coe.int/echr>
- European Parliament: <http://www.europarl.europa.eu/>
- Inter-American Commission on Human Rights: <http://www.cidh.oas.org/DefaultE.htm>

- OSCE (Office for Democratic Institutions and Human Rights): <http://www.osce.org/odihr/>
- UN Office of the High Commissioner for Human Rights (provides text of relevant treaties and information on ratification and accession): <http://www2.ohchr.org/english/>
- UN Secretary General's 8th Quinquennial Report on Capital Punishment: <http://www.un.org/Docs/journal/asp/ws.asp?m=E/2010/10>

Non-governmental organisations

- Amnesty International: <http://www.amnesty.org/en/death-penalty>
- Community of Sant'Egidio: <http://www.santegidio.org/>
- Death Penalty Action Network: <http://www.deathpenaltyaction.net/>
- Death Penalty Focus: <http://www.deathpenalty.org/>
- Death Penalty Information Centre: <http://www.deathpenaltyinfo.org/>
- Death Penalty Project: <http://www.deathpenaltyproject.org/>
- Ensemble contre la peine de mort (ECPM): <http://www.abolition.fr/ecpm/index.php>
- Foundation for Human Rights Initiative: <http://www.fhri.or.ug/>
- Hands Off Cain: www.handsoffcain.info/
- Innocence Project: <http://www.innocenceproject.org/>
- International Harm Reduction Association: <http://www.ihra.net/>
- Murder Victims For Human Rights (MVFRH): <http://www.murdervictimsfamilies.org/>
- Penal Reform International (PRI): www.penalreform.org
- World Coalition Against the Death Penalty (WCADP): <http://www.worldcoalition.org>
- World Organisation Against Torture: <http://www.omct.org/>

Media

- Inter Press Services (IPS): <http://ipsnews.net/deathpenaltyabolition/>

Academic

- Kings College London International Centre for Prison Studies: <http://www.kcl.ac.uk/schools/law/research/icps/>
- University of Essex Human Rights Centre: http://www.essex.ac.uk/human_rights_centre/

- University of Oxford Centre for Criminology: <http://www.crim.ox.ac.uk/index.html>
- University of Westminster Centre for Capital Punishment Studies: <http://www.wmin.ac.uk/law/page-144>

(vi) Importance of responsible journalism

- A. Journalists sometimes lack courage in examining flaws in the death penalty system in their country. For instance, newspapers often accept the accuracy of government statistics, or accept that the conviction of a person is positive proof of that person's guilt without questioning whether the conviction itself was lawful e.g. the convicted person did not receive a fair trial.
- B. It is essential that responsible journalistic practices of ethics, credibility and impartiality are always adhered to. All facts should be accurate and well researched, and come from credible sources. Opinion should be separated from fact. Caution is particularly needed if the topic, like the death penalty, is controversial.
- C. Be cautious about people who are offered up to speak on an issue. They might be being promoted for a reason other than to accurately inform the public debate. You need to take care in order to examine the motives of those offering to contribute.
- D. Take care with third-party material. Always make clear that the material is from others and, if it is the case, specify if you have not verified and checked it. Phrases such as "according to..." or "it's being reported by..." should cover you. Don't take for granted what you read on a third party website, even if it looks professional, and sounds convincing. Attribution is key.
- E. Sources you use need to be balanced and representative of the widest opinion base in order to protect your credibility.
- F. You must always make sure that you protect your sources. Great care must be taken when you agree to anonymity and an 'off the record' briefing, but once you have agreed to it you must honour it. You need your anonymous source to agree to you using as much information as possible without identifying them, particularly if they are making serious allegations, so that the audience is not misled and can put some value on what they say. Anonymity also raises some ethical issues about misleading the public. You might agree to any of the following to disguise identity: a voice-over, blurred images, false locations, false names, false age etc. However, you must make it clear that you are using such techniques and state clearly why you are using them. You must not use any methods that could be seen as a false representation of the truth.
- G. Ensure that you are fully up to date on your country's laws concerning defamation and libel, and follow them.
- H. Ensure that media work carried out does not put any one in danger or put the work of the organisation at risk.
-

1.5 Issues for discussion

- Start a discussion on why journalists and the media should be reporting on the death penalty and alternative sanctions.
- What are some of the more controversial and sensitive issues surrounding the death penalty? How would you go about tackling them?
- Discuss the types of story ideas that you think would be applicable to your country, region and at the international stage. What do you think your readers want to see / hear about? What type of angle would you use for these stories?
- What could the potential risks be of conducting media work (on people, organisations' work, etc)?
- In the annex of this resource, you will find three examples of news articles written and published by IPS between May and August 2010. Use these examples to deconstruct how to write a death penalty article. Go through each example and identify the pros and cons. How would you have tackled these stories yourself?

1.6 Exercises

- You are covering the story of an execution. The individual in question was convicted of raping and murdering a child in a very brutal attack. This case has created a lot of public outrage, and the police were keen to bring someone to justice. As such, both the investigation and trial were conducted and completed very quickly and there have been questions over the accuracy and legality of the evidence submitted in court. The person convicted to death is from a small indigenous community who has often been marginalised in society. How would you report on this situation?
- There have been recent positive discussions in the government of your country about putting in place a moratorium on sentencing and executions. Some law-makers are nervous about making this commitment as public opinion is still in favour of the death penalty. Your editor has asked you to write an article about the potential moratorium in order to shape public debate. How would you tackle this issue? What information would you want to include in your article? How would you go about collating relevant sources of information, and ensuring its accuracy?

ANNEX 1:

Examples of news articles on the death penalty

News article 1:

“Dictators Guard Their Death Switch”, by Cam McGrath⁶

CAIRO, Aug 6, 2010 (IPS) - Abolition movements are gaining momentum in North Africa, but authoritarian regimes appear reluctant to remove capital punishment from the penal code.

"Rulers who could (abolish the death penalty) will not give it up easily," says Nasser Amin, director of the Arab Centre for the Independence of the Judiciary and Legal Profession.

Capital punishment is legislated in all North African countries. Libya and Egypt proscribe the death penalty for dozens of crimes ranging from murder to treason. Executions are carried out regularly by hanging or firing squad.

Morocco, Algeria and Tunisia have moratoriums on executions, though courts continue to pronounce death sentences for various offences. Hundreds of prisoners wait on death row.

Abolition campaigns have focused efforts on convincing regime leaders and senior religious authorities of the ineffectiveness and contradictions of capital punishment. Activists have pressed governments to adopt UN Resolution 62/149, which calls for a moratorium on executions as a step towards striking the death penalty from the statute books. Only Algeria has voted in favour of the resolution.

The absence of democracy in the region could be seen as an obstacle -- or an opportunity -- to abolition, says Amin.

"We're not talking about democracies here," he says. "To effect any change in this region you must convince the head of state. If he agrees, the parliament will agree."

But dictators have their reasons for maintaining the status quo. One oft-cited argument is that capital punishment is needed to counter rising crime rates.

Hafez Abou Seada, chairman of the Egyptian Organisation for Human Rights (EOHR), isn't buying it. He says the death penalty is an ineffective deterrent against crime, while its implementation risks the shedding of innocent blood.

"For a long time we've used death penalty against drug dealers, yet drugs are widely available today, and at a very cheap price," he told IPS. "Legislators tried to send a strong signal by the death penalty, but after strengthening the sentence what happened? Nothing."

According to Abu Seada, Arab regimes promote the misconception that capital punishment is proscribed in Islam. In Egypt, for instance, the grand mufti, a state-appointed religious authority, is consulted before any execution order is carried out. The mufti rarely contradicts court rulings.

"They (regimes) interpret Sharia according to their purposes," he says.

Sharia, or Islamic law, mandates capital punishment for only four offences: premeditated murder, adultery, apostasy and banditry. It sets strict requirements and offers alternative punishments such as compensation and

exile. Even in the case of premeditated murder, the Qu'ran proscribes qisas ("an eye for an eye"), but also provides the option of the victim's family accepting blood money in lieu of execution.

"Governments cannot really say the death penalty is taken from Sharia, because there are crimes such as adultery and apostasy...that are punishable by death according to Sharia and are not part of the national legislation, while others (such as arson) are not in Sharia yet appear in national legislation," says Taghreed Jaber, regional director of Prison Reform International. "In Morocco, for instance, there are 365 crimes that are punishable by death -- which goes far beyond what Sharia calls for."

If capital punishment is not an effective solution to crime, nor practised in accordance with Islam, why are North African leaders so reluctant to remove it from their penal code?

"The death penalty is an effective instrument of fear and repression," argues Amin. "It can be used to (intimidate) or eliminate political opponents."

Legislation blurs the grey line between terrorism and political activism, giving authorities broad discretion to arrest and execute dissidents. Capital crimes are usually tried in special courts, often without the right to appeal.

"If you look at the crimes punishable by death you will notice that many of them are related to the security and stability of the state -- which (encompasses) most political activities," says Jaber.

She points out that while the threat of execution may not be intimidating to extremists ready to commit suicide for their cause, it will make political activists think twice before speaking out against the government.

Regimes that curb freedoms have been reluctant to relinquish measures of control. Algeria voted in favour of UN Resolution 62/149 in 2008, but cited terrorism and security concerns in its decision to scrap legislation that would have abolished capital punishment. Egypt recently renewed emergency laws in effect since 1981, signalling that the death penalty would remain in effect for the foreseeable future.

One problem throughout the region, says Jaber, is that the death penalty still enjoys popular support, as well as the backing of Islamic groups. If abolition movements can educate people on the political nature of capital punishment, and its divergences from Sharia, it could erode this support. The public would view the death penalty not as a criminal or religious issue, but as a violation of human rights.

North African leaders might be more inclined to abolish capital punishment if there was a palpable shift in public opinion, she adds. (END)

⁶ <<http://ipsnews.net/news.asp?idnews=52399>>

News article 2:

“Hung Up on the Death Penalty”, by Stanislaus Jude Chan⁷

SINGAPORE, June 18, 2010 (IPS) - "The strict laws in Singapore have been made fun of, but crime, especially serious ones like murder and drug trafficking, are no laughing matter," said Ivan Tan, a 24-year-old undergraduate.

"The death penalty might be against human rights, but it's the reason we get to live in one of the safest cities in the world," he added.

When it comes to crime and punishment, this island state of five million people has been a lightning rod for derision, mockingly called a myriad of names from "a fine city" to "Disneyland with the death penalty."

But the Singapore government has stood firm on its tough stance, and proudly parades the twin banners of economic strength and low crime rates as symbols of the success of its authoritarian rule.

After all, the country's leaders have emphasised that Singapore will not follow liberal Western ideologies, and must instead have its own brand of Asian-style democracy.

To be fair, the country has made clear its zero tolerance policy in handling crime. On all inbound flights, for example, passengers are warned that possession of drugs is a crime that carries the death penalty in Singapore.

Under the Singapore Penal Code, the death penalty is meted out on a range of offences, from unlawful discharge of firearms to murder. Any person found in possession of more than the allowed quantity of drugs also receives the mandatory death sentence.

The "mandatory" clause in the death penalty law removes judges' discretion to impose a lighter sentence.

"Nobody can claim that they don't know the rules. Since these people knowingly challenge the system and break the law, they deserve to get punished," said Irene Ng, a 53-year-old homemaker.

This bustling city boasts one of the highest levels of literacy in the world, but is surprisingly backward when it comes to discussion on issues of human rights.

Singaporeans tend to shy away from the topic, and when pressed for comments on the subject, turn conveniently to government-sanctioned answers, routinely replicated arguments against freedom of expression and other civil group concerns: that the death penalty is a necessary evil, and to succumb to international pressure in these matters is to risk destroying the fabric of society.

The mandatory death penalty for serious drug offences here is a "trade-off" the government makes to protect "thousands of lives" that may be ruined if illegal drugs were freely available, Law Minister and Second Home Affairs Minister K Shanmugam said at a dialogue session in May.

While the United Nations Commission on Human Rights adopted a resolution calling for the establishment of moratoria on executions in 2003, Singapore has been adamant in its decision to remain one of the few nations worldwide with the mandatory death penalty.

"Thousands of lives have been ruined due to the free availability of drugs" in cities such as Sydney and New York, Shanmugam said. "You save one life here, but 10 other lives will be gone. What will your choice be?"

Singapore improved from first to fifth position in the world for number of executions per capita between 2004 and 2008. The city hanged more than one per million populations each year, behind Saudi Arabia, Iran, Kuwait and North Korea, with China ranking a close sixth.

According to the latest U.N. report on capital punishment released at the end of 2009, the number of executions in Singapore has dropped dramatically from 242 in 1994-1998, and 138 in 1999-2003, to 22 in 2004-2008.

But the recent case of Yong Vui Kong has brought the mandatory death penalty in Singapore back into the limelight.

The 22-year-old Malaysian was convicted in 2008 of smuggling 47 grammes of heroin into Singapore. Lawyers representing Yong argued that the mandatory death sentence violates international standards and human rights laws.

"This is a young man, only 22, who committed a non-violent offence," Saul Lehrfreund, co-founder of the Death Penalty Project, a London-based group that appeals against death sentences, told the media in May. "The court in Singapore has no choice but to impose death by hanging, regardless of the individual circumstances of the case. In this day and age, that just seems ludicrous."

Kong, whom lawyers describe as "impoverished and vulnerable," was due to be hanged in December until lawyers obtained an emergency reprieve. The case is regarded by experts as an important challenge to the country's death penalty law and has attracted media attention across Asia, where executing people for drug offences remain controversial.

Taiwan recently abolished the mandatory death penalty. China, which continues to execute prisoners for 68 different offences including 44 non-violent crimes, allows judicial discretion in sentencing drug-related cases. In Singapore's defence, Attorney General Walter Woon has argued that parliament has the power to show mercy in individual cases.

"It can't be right that an administrative body not amenable to judicial review effectively becomes the sentencing body," said Lehrfreund. "There is a clear global trend away from sentencing people to death without taking their age, vulnerability and other powerful mitigating factors into account."

"The mandatory death penalty is barbaric. And what makes it worse in these cases involving drugs is that the accused is not presumed innocent until proven guilty. On the contrary, the burden is on lawyers of the accused to prove that he is innocent without doubt," said Joshua, a 38-year-old lawyer who was concerned about possible backlash and requested to be identified only by his first name.

"What this means is both simple and gruesome. That, sadly, considering how far we have advanced as a nation, it is still possible for an innocent man to be hanged in Singapore," he added. (END)

⁷ <<http://ipsnews.net/news.asp?idnews=51872>>

News article 3:**“World Moving Towards Abolition”, by Mehru Jaffer⁸****VIENNA, May 20, 2010 (IPS) - Anti-death penalty activists meeting in the Austrian capital to discuss the eighth quinquennial report of the United Nations Secretary-General have hailed a worldwide trend towards total and universal abolition of capital punishment.**

VIENNA, May 20, 2010 (IPS) - Anti-death penalty activists meeting in the Austrian capital to discuss the eighth quinquennial report of the United Nations Secretary-General have hailed a worldwide trend towards total and universal abolition of capital punishment.

The abolitionists are euphoric although several countries, where capital punishment remains in force, also disrespect international norms and standards on three counts - in limiting the death penalty to very serious crimes, excluding juvenile offenders from its scope and guaranteeing fair trial.

The U.N. report on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty was tabled Thursday before the U.N. Commission on Crime Prevention and Criminal Justice at its 19th session that concludes here on May 20.

"The campaign against abolishing the death penalty is a long one requiring constant reminders. And the Secretary-General's report is an extremely important and valuable tool in reminding the world to abolish capital punishment. The report will keep the dialogue and discussion with governments alive," said Thomas H. Speedy Rice of the National Association of Criminal Defence Lawyers (NACDL) from the United States.

Rice told IPS that in his opinion the report contributed to a continuing and more reasoned debate on a very emotive subject. He praised the approach of the report and the contribution made by both U.N. offices and non-governmental campaigners such as the World Coalition Against the Death Penalty (WCADP), an alliance of NGOs, bar associations, local bodies and unions.

Together with WCADP, the NACDL hosted an ancillary meeting on Thursday that was also attended by Jacqueline Macalesher, death penalty project manager for the London-based Penal Reform International (PRI).

Macalesher highlighted PRI's ongoing programme on the abolition of the death penalty and alternatives that respect international human rights standards.

For two years the PRI's death penalty project will work in 20 countries in five regions to increase safeguards and promote greater accountability in criminal justice systems through holistic policy development and legal reform, including improved prison management.

The other objective of the project is to challenge governments to consider carefully whether sanctions intended to replace the death penalty and treatment of long-term prisoners comply with international standards and norms.

Macalesher, whose work began early this year, finds the Middle East and North African regions the most challenging because death penalty is seen as part and parcel of the culture and religion of populations there.

The project will take on society's attitudes about the

death penalty and support governments to move towards abolition, and transparency in the application of the death penalty.

"Even states that retain the death penalty are reported to have abolished its use either in law or in practice. The acceleration of this practice even slightly is extremely positive," said Aurelie Placaise, a campaigner representing WCADP.

The report finds that countries that retain the death penalty are, with rare exceptions, significantly reducing its use in terms of numbers of persons executed and the crimes for which it may be imposed.

However, while working towards an international ban on capital punishment abolitionists also want those states that retain the death penalty not to violate safeguards and to fully respect existing limitations and restrictions on the use of the death penalty.

Of particular concern to abolitionists is the use of the death penalty against juvenile offenders. The Convention on the Rights of the Child clearly stipulates that capital punishment shall not be imposed for offences committed by persons below 18 years of age.

The overwhelming and growing international consensus that the death penalty should not apply to juvenile offenders stems from the recognition that young persons lack maturity and judgement and, therefore, cannot be expected to be fully responsible for their actions.

More importantly, it reflects the firm belief that young persons are more susceptible to change, and thus have a greater potential for rehabilitation than adults.

Placaise said that being the eve of the U.N. resolution on a moratorium on the use of death penalty that faces a vote at the end of the year at the General Assembly; this is a good time to be discussing the issue.

This resolution is seen as the closest commitment of the international community to abolish capital punishment in the world.

According to Placaise more than two-thirds of the world's countries have already abolished the death penalty in law or in practice with 95 countries having abolished the death penalty for all crimes.

Nine countries have abolished the death penalty for all crimes except extraordinary crimes like those committed in times of war and 35 countries are de facto abolitionists where the death penalty is still provided for in legislation but no executions have taken place for at least ten years. (END)

⁸ <<http://ipsnews.net/news.asp?idnews=51521>>.

For more information on PRI's work on the abolition of the death penalty and alternative sanctions that respect international human rights standards please contact:

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ISBN 978-0-9568822-0-2

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