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HUMAN RIGHTS QUESTIONS

Capital punishmentReport of the Secretary-General

SUMMARY

In its resolution 1745 (LIV), the Economic and Social Council requested the Secretary-General to present to the Council periodic updated and analytical reports on capital punishment at five-year intervals starting from 1975. The Council has before it the second five-year report, based on information on the use of and trends in capital punishment, as well as legal changes and initiatives that have taken place since 1974, received from Member States for the period 1974-1978.

In accordance with General Assembly resolution 2857 (XXVI) and Economic and Social Council resolution 1930 (LVIII), the present report includes information on practices and statutory rules which govern the right of a person sentenced to death to petition for pardon, commutation or reprieve.

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THE STATUS OF CAPITAL PUNISHMENT IN STATES MEMBERS OF THE
UNITED NATIONS

INTRODUCTION

1. In its resolution 1745 (LIV), para. 5, of 16 May 1973, the Economic and Social Council invited the Secretary-General to present to the Council periodic updated and analytical reports on the use of and trends in capital punishment at five-year intervals, starting from 1975. The Secretary-General presented the first report to the Council in 1975, based on information received from Member States for the period 1969-1973 (E/5616 and Add.1 and Corr.1 and 2). 1/
2. The present report is the second five-year report on capital punishment called for by Council resolution 1745 (LIV) and is based on information received from Member States for the period 1974-1978.
3. In accordance with General Assembly resolution 2857 (XXVI), paragraph 6, and Economic and Social Council resolution 1930 (LVIII), paragraph 4, the 1980 report on capital punishment also includes information, as requested by Member States, on practices and statutory rules governing the right of a person sentenced to capital punishment to petition for pardon, commutation or reprieve.
4. Motivated by its concern about the use of capital punishment and expressing the desirability of continuing the discussion of the question, the General Assembly reaffirmed in its resolution 32/61 that, as established by its resolution 2857 (XXVI) and by Economic and Social Council resolutions 1574 (L), 1745 (LIV) and 1830 (LVIII), the main objective to be pursued in the field of capital punishment was that of progressively restricting the number of offences for which the death penalty might be imposed, with a view to the eventual abolition of that punishment. Member States were urged by the Assembly to provide the Secretary-General with relevant information for the preparation of the 1980 report on capital punishment. The General Assembly also called upon the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Caracas from 25 August to 5 September 1980, to discuss the various aspects of the use of capital punishment and the possible restriction thereof, including a more generous application of rules relating to pardon, commutation or reprieve, and requested the Committee on Crime Prevention and Control to give consideration to the appropriate place for the item on the agenda of the Congress and to prepare documentation on the subject.
5. In the same resolution, the General Assembly referred to article 3 of the Universal Declaration of Human Rights (General Assembly resolution 217 A (III)) and to article 6 of the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex), which affirmed the right to life as inherent to every human being. The Assembly also recalled its resolutions 1396 (XIV), 2393 (XXIII), 2857 (XXVI) and 3011 (XXVII), as well as Economic and Social Council resolutions 934 (XXXV), 1574 (L), 1656 (LII), 1745 (LIV) and 1930 (LVIII), which confirmed the continuing interest of the United Nations in the study of the question of capital punishment with a view to promoting full respect for the right to life.

1/ The report included a historical review of United Nations action relating to the question of capital punishment.

6. Pursuant to the request of the General Assembly in paragraph 5 of its resolution 32/61, the Committee on Crime Prevention and Control at its fifth session in 1978 decided to discuss the question of capital punishment, in conjunction with item 5 of the provisional agenda for the Congress, on United Nations norms and guidelines in criminal justice: from standard-setting to implementation (see E/CN.5/558).

7. In pursuance of paragraph 4 of General Assembly resolution 32/61, the Sixth United Nations Congress, after discussing the question of capital punishment, will report thereon, with recommendations, to the General Assembly at its thirty-fifth session. Furthermore, in accordance with paragraph 3 of the same resolution, the Economic and Social Council will report to the General Assembly on its deliberations and recommendations on the basis of the present report and of the study that was submitted by the Committee on Crime Prevention and Control pursuant to Council resolution 1930 (LVIII) (E/AC.57/33).

8. The Economic and Social Council, in its resolution 1979/22, expressed its concern about the slow progress being made in restricting the number of capital offences for which capital punishment might be imposed, reiterated the desirability of eventually abolishing that punishment, and reaffirmed its wish for the establishment of adequate legal procedures and the greatest possible safeguards for the accused in capital cases. Noting the decisions of the Committee on Crime Prevention and Control at its fifth session on the question of capital punishment, the Economic and Social Council decided that it was essential for the preparation of future reports on the subject to obtain the fullest possible information on the use of the death penalty in all countries. The Secretary-General was requested to make every effort to elicit full responses from all Governments in future inquiries on capital punishment.

9. The present document is based on the responses of 62 Member States to the questionnaire sent to Governments in the spring of 1979, covering the period 1974-1978. It should be noted that the number of responses has increased by about 25 per cent since the last five-year report.

I. THE SITUATION AS REFLECTED IN THE 1975 REPORT OF THE SECRETARY-GENERAL ON CAPITAL PUNISHMENT

10. In preparing the first five-year report of the Secretary-General on capital punishment (E/5616 and Corr.1 and 2 and Add.1) a questionnaire concerning the use of and trends in capital punishment during the years 1969-1973 was addressed to the Governments of Member States in 1974. Replies to this inquiry were received from 49 Member States. As of 1974, 23 of the responding Member States were "abolitionist" and 26 were "retentionist".

11. During the period 1969-1973, two countries abolished capital punishment completely, three abolished it for ordinary crimes, one suspended its use, and one placed restrictions on it. Several countries increased the number of offences for which the death penalty could be applied.

12. While several countries moved towards the abolition of capital punishment, there was a parallel trend towards the retention of the death penalty and, in fact, many countries reported an increase in the number of executions during the period.

II. THE CURRENT SITUATION

A. Results of the second United Nations survey on capital punishment

13. While the purpose of the present report is to bring the 1975 report up to date and to present a comprehensive view of the use of and trends in capital punishment in Member States, its completeness and accuracy is subject to certain limitations. First, although the 1980 report is based on more replies than the 1975 report, it must be noted that the majority of the member States did not respond, so that it has not been possible to assess the situation fully at both the regional and the global levels. Secondly, despite certain measures, including the efforts of the Secretary-General to simplify the task of Member States in responding to the questionnaire and to elicit detailed responses from Governments in accordance with Economic and Social Council resolution 1979/22, the information received was, in many cases, incomplete; in addition, the replies received were not all of equal substance. Thirdly, the diverse terminologies, classification systems and reporting practices used by Member States are not easily comparable, particularly with regard to the types of capital offences and the nature of legal remedies.

14. Replies to the inquiry were received from 62 Governments. Of the responding countries, 36 are "retentionist" (Afghanistan, Algeria, Argentina, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bolivia, Botswana, Chile, Cyprus, El Salvador, Ethiopia, Fiji, France, Greece, Guyana, Hungary, India, Indonesia, Iraq, Japan, Kuwait, Morocco, Poland, Romania, Rwanda, Samoa, Seychelles, Singapore, Sudan, Syrian Arab Republic, United Republic of Tanzania, Tunisia and Zambia); 16 are "abolitionist" (Austria, Cape Verde, Colombia, Costa Rica, Denmark, Ecuador, Finland, Germany, Federal Republic of, Iceland, Luxembourg, Norway, Panama, Portugal, Sweden, Uruguay and Venezuela); 10 have abolished the death penalty for ordinary crimes only (Brazil, Canada, Israel, Italy, Malta, Mexico, Nepal, Netherlands, Spain and United Kingdom of Great Britain and Northern Ireland). It is to be noted that the category "retentionist" includes many countries, such as Fiji, Greece, Guyana, the Ivory Coast, Samoa and Seychelles, in which no executions have taken place during the current reporting period.

B. Review of the status of capital punishment in Member States

15. Information received by Governments in the course of the recent survey is presented by region, in accordance with the practice adopted in the report of the Secretary-General on crime prevention and control (A/32/199), the so-called world crime survey.

16. Thus, the Member States that have provided quantitative data and information for the years 1974-1978 have been divided into six regions, on the basis of geographical proximity and/or cultural similarity.

17. The distribution adopted is the following:

- (a) North Africa and the Middle East;
- (b) Africa south of the Sahara;
- (c) Asia and the Pacific;
- (d) Eastern Europe;
- (e) Latin America and the Caribbean;
- (f) Western Europe and North America.

18. Of the 62 respondent States 8 are from the region of North Africa and the Middle East, 2/ 9 from Africa south of the Sahara, 3/ 9 from Asia and the Pacific, 4/ 3 from Eastern Europe, 5/ 14 from Latin America and the Caribbean, 6/ and 19 from Western Europe and North America. 7/

1. Legal changes and initiatives reported since 1974

19. Replies to the inquiry reveal that a number of legal changes leading to the reduction of capital punishment or its partial or total abolition have taken place since 1974. On the other hand, several Governments have reported legal changes

2/ Algeria, Bahrain, Cyprus, Iraq, Kuwait, Morocco, Syrian Arab Republic and Tunisia.

3/ Benin, Botswana, Cape Verde, Ethiopia, Rwanda, Seychelles, Sudan, United Republic of Tanzania and Zambia.

4/ Afghanistan, Bangladesh, Fiji, India, Indonesia, Japan, Nepal, Samoa and Singapore.

5/ Hungary, Poland and Romania.

6/ Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guyana, Mexico, Panama, Uruguay and Venezuela.

7/ Austria, Belgium, Canada, Denmark, Finland, France, Germany, Federal Republic of, Greece, Iceland, Israel, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden and United Kingdom.

whereby the use of capital punishment was reintroduced or extended or the categories of capital offences were expanded. The replies indicate that, in general, the legal status of capital punishment in Member States has remained relatively unchanged over the five-year period, with major or minor changes, either de jure or de facto, in several countries. A certain trend is indicated by the removal of the death penalty in some countries for offences against the person, such as murder, to which it had traditionally been applied, and the introduction of capital punishment in some countries for economic and political crimes and for terrorist activities involving a threat to the societal order or to governmental stability.

20. While some countries have reported no legal changes during the period under review, they have nevertheless indicated significant legislative initiatives, either towards or away from the reduction or abolition of capital punishment.

21. In Africa south of the Sahara legal changes are reported by Ethiopia, where, in 1974, the categories of capital offences were extended to include counter-revolutionary acts, offences against the State, prohibited trafficking in arms and offences against public office. In Seychelles, the death penalty for murder was abolished in 1978.

22. In the region of North Africa and the Middle East, legislative initiatives seeking the reduction of capital punishment by modifying the Penal Code are cited by Morocco.

23. Legal changes and legislative initiatives are reported by two States in Asia and the Pacific. In Fiji, before 1966, the death penalty was imposed for all cases of murder and for the crime of treason. Between 1966 and 1972 the death penalty was suspended except for special categories of murder, for example, killing of a police or prison officer or murder committed by a recidivist. In 1973 the death penalty was restored for murder except in cases where the presiding judge commuted execution to a sentence of life imprisonment and in 1979 capital punishment was abolished for murder. Japan cites the addition of three capital crimes since 1960: seizure of aircraft or other related acts causing death, enforced in 1970; causing an aircraft to crash, enforced in 1974; and the killing of a hostage, enforced in 1978. Punishment of these offences was provided for by law with a view to the prevention of terrorist acts. However, in 1974, the Legislative Council, an advisory organ of the Ministry of Justice, made recommendations to the Ministry that the number of capital crimes be decreased and a provision be set forth requiring that particular care be used in the application of the death penalty.

24. With regard to Eastern Europe, the Government of Hungary cites an Act of 1978 in which it expressed the view that, although socialist development was moving towards the gradual reduction of capital punishment and, ultimately, its abolition, the protection of society at present called for the maintenance of this penalty in grave cases of military offences, terrorism, crimes against life and crimes against the State.

25. In Latin America and the Caribbean, Argentina reports that capital punishment was introduced in 1971, abolished in 1973 and reintroduced in 1974. In Mexico the State of Sonora abolished capital punishment in 1975. Chile reports on legislative initiatives that were designed to reduce the use of capital punishment.

26. Major legal changes leading towards the abolition of capital punishment are reported by countries in Western Europe and North America, where Portugal in 1977, Denmark in 1978, and Luxembourg and Norway in 1979 became completely abolitionist. In 1978, Spain abolished the death penalty under ordinary penal law, and replaced it by 30 years' imprisonment. Canada in 1976, by the Criminal Law Amendment, abolished the death penalty under ordinary penal law, although the penalty may still be imposed for offences against the Code of Military Discipline. Legislative initiatives seeking the general abolition of capital punishment in the Netherlands were announced in 1977 and in France legislative initiatives seeking the reduction and the total abolition of the death penalty were undertaken during the period under review. The Government of Israel reports that in 1979 it rescinded an earlier decision, which had instructed prosecutors not to seek the death penalty unless it was mandatory. In the United Kingdom a motion that the death penalty be made available to the courts was defeated in the House of Commons in 1979.

2. Capital offences in Member States

27. The general principle that the death penalty 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 is embodied in the International Covenant on Civil and Political Rights in its article 6. Although the Covenant is binding only on those countries which have ratified its provisions, it reflects a general principle and therefore provides a yardstick by which to identify crimes carrying the penalty of death.

28. The legal foundation for the application of capital punishment may be found in ordinary penal laws, military laws, and special laws of individual Member States, extending to a wide range of offences. Capital crimes included in ordinary penal codes fall into three broad categories: offences against the person, against property and against the State. The greatest number of capital offences reported by Member States are those against the State and against the person.

29. The conventional or ordinary offences liable to the death penalty under penal codes are frequently: (a) offences against the person such as murder or other aggravated forms of homicide, assault, serious modalities of robbery and rape, and arson resulting in death; (b) crimes against property such as serious cases of arson, piracy, offences against the national or social economy and public property, certain economic crimes and sabotage; (c) offences against the State, which in some cases include military offences, such as espionage, treason, terrorism, grave offences against the country, State or Government, offences against the peace of the nation or the existing institutional order, attempts to overthrow the Government, the endangering of public security, attempts on the life of, or murder of, a head of State or member of the family of the head of State or public officials, and planned or attempted incitement to war. Some penal codes

include crimes against mankind, genocide, counterfeiting, trafficking in narcotics and other drug offences, and attacks on minors in specified circumstances, slave trafficking, and cases of adultery.

30. Military penal law, in general, applies to military cases and personnel, and is usually subject to military criminal procedure, safeguards and guarantees. In some countries the death penalty for military offences may only be used in wartime, although in some countries it may also be used in situations of internal emergency.

31. Capital offences provided for by military penal codes usually include rebellion, mutiny, desertion, disobedience, assisting or communicating with the enemy or foreign intelligence sources, destruction of war material, certain offences against the civil population or against prisoners of war, unjustified capitulation or surrender and various forms of homicide, robbery, arson and destruction in time of war.

32. A variety of special laws, decrees or regulations provide further legal foundation for the application of capital punishment, in many countries. Frequently such capital offences include conspiracy against the State, assassination attempts against the head of State or members of his or her family and members of the Government, endangering national security, public order or the ways and means of transport or communication, counter-revolutionary activities, acts of terrorism, the illegal production or possession of explosives or arms, various forms of espionage or sabotage, and collaboration or contact with a foreign intelligence agency.

33. The death sentence is discretionary for capital crimes in some countries, mandatory in others, and in a third group of countries it is mandatory in some cases and discretionary in others.

34. Listed below are the the types of offences for which the penalty of death may be imposed in responding countries, grouped according to regions. ^{8/} Comparisons are of limited value, however, in a context of diverse governmental and legal systems, laws, cultural traditions and policies regarding capital punishment. The replies have of necessity been grouped by broad categories of offences.

North Africa and the Middle East

Algeria: Murder, certain offences against public and State property, drug related offences

Bahrain: Offences against the person and against the State

^{8/} Countries that are "abolitionist for ordinary crimes only" are indicated by an asterisk.

- Cyprus: Premeditated murder, offences against the State, including high treason, instigating invasion and piracy, and military crimes such as treason, capitulation in an open place, damage of means of communication, espionage, aid to spies, desertion, rebellion, disobeying orders, leading operations against the terms of an armistice, leading a rebellion by prisoners of war
- Iraq: Homicide, crimes against the internal and external security of the State and public authority
- Kuwait: Homicide, crimes against the external or internal security of the State, abduction or detention, crimes involving illegal sexual intercourse and disgrace, slave trafficking, piracy, damage and desecration of property
- Morocco: Offences against the person such as premeditated murder, parricide, poisoning, barbaric acts (actes de barbarie), castration leading to the death of the victim, arson of an inhabited dwelling, arson followed by death, assaults (attentats) carried out with explosives, offences against the State, attempts on the life of the King, the heir to the throne, or a member of the royal family, crimes endangering the security of the State, such as treason and espionage
- Syrian Arab Republic: Homicide, offences against the State or the nation, acts of terrorism, recidivist trafficking in drugs
- Tunisia: Premeditated homicide, arson, treason endangering the security of the State, including treason and espionage, attempts on the life of the Head of State

Africa south of the Sahara

- Benin: Offences against the person such as homicide, rape and robbery, offences against the State
- Botswana: Murder without extenuating circumstances, offences against the State such as treason, mutiny and failing to suppress a mutiny, aiding the enemy
- Ethiopia: Aggravated homicide, robbery, looting and piracy, offences against the State including high treason, treasonable acts committed by diplomats, espionage, armed uprising and civil war and breaches of Government or military secrecy, offences against the law of nations such as genocide, crimes against humanity, war crimes against the civil population, war crimes against

prisoners, pillage, piracy and looting, use of illegal means of combat, military offences and offences against the armed forces and the police including desertion, insubordination, mutiny, cowardice, capitulation

Rwanda: Offences against the person such as murder, poisoning and homicide committed in order to facilitate theft, extortion, rape and indecent attacks resulting in death, arson with ensuing death, acts against the external security of the State, cowardice, treason and desertion in wartime, and the murder of a high officer by another of lower rank during acts of military service

Seychelles: Treason

Sudan: Offences against the person and against the State

United Republic of Tanzania: Murder and treason

Zambia: Murder, aggravated robbery with use of firearms, treason

Asia and the Pacific

Afghanistan: Grave and exceptional cases of homicide and robbery, exceptional cases of offences against public property such as arson of public property resulting in death, offences against the internal and external security of the State, exceptional cases of smuggling

Bangladesh: Homicide

Fiji: Treason, genocide

India: Murder, attempted murder and murder by a life-term convict, abetment in the suicide of a child or insane person, giving false evidence leading to the conviction and execution of an innocent person, waging war against the Government, cases of abetment of mutiny by a member of the armed forces

Indonesia: Premeditated murder, robbery with rape resulting in death, attempts on the life of, or assassination of the Head of State, espionage and treason, narcotics offences, smuggling, hijacking, piracy, subversion, certain offences against the law of firearms or explosives

- Japan: Crimes against the person, including intentional homicide, certain offences resulting in death such as robbery, duelling, the overturning of a train, endangering traffic, poisoning of the public water supply, seizure of aircraft and related acts, killing of a hostage, offences against the State including assisting the enemy, being a principal conspirator in insurrection, inducing foreign aggression and other offences directed against the State, other offences such as arson and the use of explosives
- Nepal:* Armed resistance against the kingdom, crimes against members of the royal family
- Samoa: Murder, treason
- Singapore: Murder, kidnapping, use or attempted use of and traffic in firearms, waging of war against the Government, illegal possession of weapons, firearms, ammunition or explosives in a security area

Eastern Europe

- Hungary: Aggravated homicide, crimes against the State, aggravated conspiracy, sedition, sabotage, assassination, treason, and espionage, assistance to the enemy, grave offences against peace and humanity such as genocide, aggravated violence against the civil population, criminal warfare, aggravated violence against the bearer of the flag of truce, offences against the public order such as aggravated acts of terrorism and unlawful seizure of aircraft
- Poland: Homicide, assault, rape, robbery, offences against the State, including crimes particularly harmful to the national economy
- Romania: Grave cases of homicide, offences against public property resulting in grave consequences such as death, damage or destruction, offences against the State including treason, espionage, hostile acts against the State, acts endangering its security, acts committed against the community and the undermining of the national economy, genocide, cases of inhuman treatment such as torture, mutilation and debilitation of persons in the hands of the enemy, destruction of railroad installations or giving false signals resulting in disaster, preventing the use of an aircraft, or ship resulting in grave consequences, certain offences in wartime, such as abandoning the battlefield, capitulation, abandoning a military vessel or command thereof, failing to take necessary measures in a naval operation and lowering the flag of a military vessel during battle

Latin America and the Caribbean

- Argentina: Homicide, assault, rape, robbery, kidnapping followed by death, crimes against the peace of the nation
- Barbados: Murder, treason
- Bolivia: Homicide, parricide, offences against the security of the State
- Brazil:* Military offences committed in wartime as specified in the military penal code
- Chile: Offences against the person, including parricide, kidnapping of a minor and robbery, offences against property, including piracy, arson and serious damage (estragos), crimes against the State, including treason and espionage and acts seeking to change the established institutional order or to intimidate the population, or crimes against public security, other offences such as the organization of private military forces, combat groups or military organized units and corresponding activities
- El Salvador: Aggravated forms of murder, parricide, robbery and arson followed by death, offences against the State, including desertion, treason, espionage or rebellion in wartime
- Guyana: Homicide, treason
- Mexico: Treason committed during foreign wars, serious military offences

Western Europe and North America

- Belgium: Offences against the person, including premeditated murder, parricide, poisoning, attempts (attentats) on the life of the King, members of the royal family or heir to the throne, offences against property, including voluntary arson and destruction by explosives, other offences such as attempts against the external security of the State, certain offences committed in wartime
- Canada:* Offences against the military penal law, laws of war and other special laws

- France: Aggravated forms of homicide, parricide, crimes perpetrated with torture or barbaric acts (actes de barbarie), blows to or ill-treatment of a child with the intention of causing death or leading to death, castration or kidnapping of a minor followed by death, armed theft (vol avec port d'armes), destruction by explosives of an inhabited structure causing death or invalidity, depositing an explosive device in a public or private passage, acts of violence committed against a judge or civil servant with the intention of causing death, arbitrary detention or kidnapping accompanied by physical torture, crimes against the State, including acts of piracy, treason inciting a foreign country to hostilities against the State, wartime military offences, including acts of rebellion, desertion, treason, sabotage, espionage, conspiracy, disobedience, abandonment of a post or vessel, pillage and theft
- Greece: Homicide, robbery, terrorism, espionage
- Israel:* Offences against laws of war, conspiracy, genocide, including incitement and attempt, crimes against the Jewish people, crimes against humanity, war offences, acts calculated to impair the sovereignty of the State or to bring about military action against the State, assisting the enemy in a period of armed hostilities, offences against the military justice law committed during battle, including acts of treason and offences against defence regulations such as the discharge of explosives or incendiary articles with intent to cause damage, death or injury, illegal possession of firearms
- Italy:* Offences under the wartime military penal code
- Malta:* Offences under the military code
- Netherlands:* Offences under the military code
- Spain:* Offences under the military penal code in wartime
- United Kingdom
of Great Britain
and Northern
Ireland:* Piracy with violence, high treason

3. Capital sentences and executions

35. During the period under review, 2,364 capital sentences and 713 executions - involving less than one third of those sentenced - were reported. There has been neither a steady increase nor a steady decrease in the number of capital sentences or the number of executions indicated by Governments for the period. Indeed, the pattern over the five-year period has been somewhat erratic. As regards the

number of death sentences imposed, 429 were reported for 1974, 449 for 1975, 416 for 1976, 689 for 1977, and 381 for 1978. Thus, with the exception of 1977, with the extraordinarily high number of 689 death sentences, the average for all other years is 418, with not too much variation from year to year. As regards executions, 70 were reported for 1974, 154 for 1975, 96 for 1976, 334 for 1977 and 59 for 1978. The high figure of 334 executions for 1977 stands in stark contrast to the number for all other years. In five countries, 1977 was the year in which by far the greatest number of death sentences were imposed and executed. The large number of sentences imposed and executed is attributable to the extraordinarily large jump in death sentences (322) and executions (254) in one country alone, for that year only.

36. Almost all of the 2,364 sentenced persons were men. Nine women are reported to have received capital sentences during this period. Of the 713 persons executed none was female.

37. A regional breakdown indicates that the highest number of capital sentences reported - 1,279, representing over half of the total number of all reported sentences - were imposed by seven States in Africa south of the Sahara, followed by 713 sentences imposed by seven States from Asia and the Pacific, 151 imposed by seven States in North Africa and the Middle East, 106 imposed by three States of Eastern Europe, 85 imposed by five States of Western Europe and North America, and 30 imposed by two States of Latin America and the Caribbean. The highest number of executions - 423, representing more than half of the total for all replies - was reported by seven States of Asia and the Pacific, followed by 224 executions in six States in Africa south of the Sahara, 29 in five States in North Africa and the Middle East, 25 in two States of Eastern Europe, 10 in two States of Western Europe and North America, and two in one State of Latin America and the Caribbean.

38. One male under the age of 18 is reported to have been sentenced to death in 1978. The remaining 2,363 persons sentenced over a period of five years were over 18 years of age, and there is no clear indication in the information received that any of the persons executed were under 18 years of age.

39. According to the replies received, offenders receive capital sentences and are executed for crimes that belong mostly to two broad categories, namely offences against the person and offences against the State.

40. The two prevailing modes of execution are hanging and shooting. Several Governments report that a distinction is made between the way in which civilians and military offenders are executed, i.e., civilians are executed by hanging and military personnel by firing squad. In 13 countries the death penalty is carried out by hanging, in 15 by shooting, in 10 by hanging or by shooting, in one by the guillotine, and in one by the guillotine or by shooting. 9/

9/ Many replies did not indicate the mode of execution.

41. The majority of the reporting States - 33 - indicate that executions take place in seclusion, while five report that they take place in public. Several States specify certain legal conditions under which public executions are carried out, for example, executions shall take place only when the court considers it expedient that the execution be public in order to serve as an example; that executions shall take place in public at the place generally designated by the court for that purpose; that executions shall take place on the day and at the hour designated by the court and at the site chosen within its territorial jurisdiction; that they shall not be carried out on national or religious holidays; that precautions shall be taken to avoid undue publicity; and that they shall be limited to a certain number of adult spectators.

42. A country-by-country account, grouped by regions, of the number of sentences imposed and the number of executions carried out during the period under review, as well as offender characteristics, i.e., sex and age, as indicated by reporting Member States, is given in table 1 below, with the following clarifications: (a) the table is not complete, as some replies did not answer all the questions; (b) as a rule few Governments have provided military criminal statistics and therefore executions carried out under military penal law are not reflected in the table; (c) a comparison of the figures shows that persons executed in the period under review were not necessarily sentenced to death in the same period; and (d) in cases where capital punishment has only recently been abolished it is possible that capital sentences may have been imposed and executions carried out before its abolition during the period under review.

Table 1 (continued)

Responding States (by region)	Number of persons sentenced			Number of persons executed				Type of capital offence				
	Total number involved	Sex		Age		Total number involved	Sex		Age		Number of sentences	Number of executions
		Male	Female	Under 18	Over 18		Male	Female	Under 18	Over 18		
EASTERN EUROPE												
Hungary	10	10	0		10	9	9	0		9	9P/1 Others	9P
Poland	74	74			74						73P/1 Prop	
Romania	22	22				16	16				22P	16P
LATIN AMERICA AND THE CARIBBEAN												
Argentina a/	0					0						
Barbados	6	6		1	5	2	2			2	6P	2P
Bolivia												
Brazil*	0					0						
Chile	0					0						
El Salvador						0						
Guyana	24	23	1			0						
WESTERN EUROPE AND NORTH AMERICA												
Belgium	5					0						
Canada*	5	5			5						5P	
France	7	7			7	3	3			3	7P	3P
Greece	43	43	0		43	0					34P/9S	
Israel*	0					0						
Italy*	0					0						
Malta*												
Netherlands*	0					0						
Spain*	25	25			25	7	7			7	25P	7P
United Kingdom of Great Britain and Northern Ireland*	0					0						

Note: A blank space for the total number involved indicates either that no information is available or that the information is insufficient.

P = crimes against the person
S = crimes against the State
Prop = crimes against property
Others = other offences

* "Abolitionist" for ordinary crimes only; all the other States listed are "retentionist".

a/ Argentina reported one death sentence imposed in 1979.

/...

Extraneous reasons precluding sentencing or execution

43. Article 6, paragraph 5, of the International Covenant on Civil and Political Rights states that "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women". While the legislation of many Member States embodies these principles, there are some States that provide in their legislation for exemption from the sentencing and execution of certain offenders for reasons additional to those set out in the Covenant. On the other hand, the standards of some countries fall short of those set out in the Covenant.

44. Most States exclude "minors" from the capital sanction. The age below which young persons, though criminally responsible, may be excluded from this penalty varies between 16 and 21 years. In lieu of execution, juvenile offenders receive a lesser penalty, i.e., imprisonment or detention for a definite or an indefinite period of time.

45. Pregnancy, age and mental illness are cited by reporting States as reasons for which certain offenders are excluded from sentencing or execution in capital cases.

46. Pregnancy is cited as a reason for exemption from capital sentencing or execution in most States. Many countries report that execution is postponed temporarily, i.e., until delivery of the child, while some note that a term of imprisonment is imposed as an alternative penalty.

47. As regards mental illness, less than half of the countries give it as a reason for exemption from execution and most countries report that executions are postponed until the recovery of the offender, although general provisions of the penal codes provide for deferment or cancellation of execution in many additional Member States.

48. Governments' replies on these issues are set out in table 2 below; only the countries whose answers cover this point have been listed.

Table 2. Reasons for exemption from sentencing or execution in capital cases, 1974-1978

Responding States (by region)	Age		Pregnancy		Mental illness		Other circumstances	
	Limit	Alternative sanction	Whether exempt	Alternative sanction	Whether exempt	Alternative sanction	Type	Alternative sanction
NORTH AFRICA AND THE MIDDLE EAST								
Algeria	Minors		Yes		Yes	Confinement in mental home		
Bahrain	18		Yes		Yes			
Cyprus	16	Sentenced to detention as specified by Council of Ministers	Yes	Life imprisonment	Yes			
Iraq	20		Yes					
Kuwait			Yes				Woman with a child	Life imprisonment
Morocco	Minors	10-20 years' imprisonment	Yes	Postponement of execution until 40 days after delivery	Yes	Lesser penalty		
Syrian Arab Republic			Yes	Postponement of execution until after delivery			Physical illness	
Tunisia			Yes	Postponement of execution until after delivery				

Table 2 (continued)

Responding States (by region)	Age		Pregnancy		Mental illness		Other circumstances	
	Limit	Alternative sanction	Whether exempt	Alternative sanction	Whether exempt	Alternative sanction	Type	Alternative sanction
AFRICA SOUTH OF THE SAHARA								
Botswana	Minors		Yes					
Ethiopia	18		Yes	If the child is born alive, commutation of sentence to rigorous life imprisonment			Severe illness	
Rwanda			Yes	Postponement of execution until after delivery				
Sudan	18 and over 70		Yes		Yes			
United Republic of Tanzania	18		Yes					
Zambia	18		Yes	Life imprisonment	Yes	Detention in mental hospital		
ASIA AND THE PACIFIC								
Afghanistan	18		Yes					
Bangladesh			Yes	Postponement of execution until after delivery	Yes	Postponement of execution until recovery		
India	Minors in some States		Yes	Postponement of execution until delivery, or life imprisonment				
Indonesia	16		Yes	Postponement of execution until after delivery				

Table 2 (continued)

Responding States (by region)	Age		Pregnancy		Mental illness		Other circumstances	
	Limit	Alternative sanction	Whether exempt	Alternative sanction	Whether exempt	Alternative sanction	Type	Alternative sanction
ASIA AND THE PACIFIC (cont.)								
Japan	18		Yes	Postponement of execution	Yes	Postponement of execution		
Nepal*								Illness preventing movement
Samoa	18	Life imprisonment	Yes	Life imprisonment				
Singapore	Minors		Yes		Yes			
EASTERN EUROPE								
Hungary	20 and 18 for the military		Yes		Yes			
Poland	18	25 years' imprisonment	Yes	25 years' imprisonment	Yes	Postponement of execution until recovery	Severe illness	Postponement of execution until recovery
recovery								
Romania	Minors	25 years' imprisonment	Yes	25 years' imprisonment			Woman with a child under three years of age	25 years' imprisonment
LATIN AMERICA AND THE CARIBBEAN								
Barbados	18		Yes				Persons unfit to plead	Detention
Chile	Minors		Yes					
El Salvador			Yes				Grave illness	Postponement of execution
Guyana	18		Yes		Yes			

Table 2 (continued)

Responding States (by region)	Age		Pregnancy		Mental illness		Other circumstances	
	Limit	Alternative sanction	Whether exempt	Alternative sanction	Whether exempt	Alternative sanction	Type	Alternative sanction
NORTH AMERICA AND WESTERN EUROPE								
Belgium			Yes		Yes		Physical illness	
Canada*	18		Yes		Yes	Not guilty for reasons of insanity		
France	Minors		Yes		Yes			
Greece	21		Yes	Postponement of execution until six months after delivery	Yes	Postponement of of execution until recovery		
Netherlands*	18		Yes	Postponement of execution until after delivery	Yes	Postponement of execution		

Note: A blank space indicates that no answer was provided. The term "minors" is used if the exact age limit was not indicated.

* "Abolitionist" for ordinary crimes only; all the other States listed are "retentionist".

4. Legal safeguards and practices

49. In resolution 2857 (XXVI), the General Assembly requested the Secretary-General to prepare a report on the practices and statutory rules governing the right of a person sentenced to capital punishment to petition for pardon, commutation of sentence or reprieve. In accordance with the request in Economic and Social Council resolution 1930 (LVIII), which was reiterated by the General Assembly in resolution 32/61 and the Economic and Social Council in resolution 1979/22, the present report includes information on the subject of such legal safeguards and practices.

50. The right of anyone sentenced to death to seek pardon or commutation of a capital sentence has been set forth in article 6, paragraph 4, of the International Covenant on Civil and Political Rights. The Covenant also provides that amnesty, pardon or commutation of the sentence of death may be granted in all cases. Although the Covenant is binding only upon those Member States which have ratified it, it can be regarded as an authoritative interpretation of a general principle in the field of human rights and thus as a guideline for non-signatory Member States.

51. Nearly all the retentionist Member States that replied to the relevant part of the questionnaire have provisions in their legislation allowing a person sentenced to death to request a re-examination of the case by way of some kind of legal remedy, although statutory rules and practices which govern the right of a person sentenced to capital punishment to petition for pardon, commutation or reprieve differ in many Member States according to national law and practice, ^{10/} the more so in countries in a state of emergency or siege. The terminology of such legal safeguards may in some cases cause conceptual uncertainties and ambiguities, which may be aggravated by linguistic problems and translations.

52. The terms most frequently used in Governments' replies are "appeal", "cassation", "revision", "pardon" or "indulto". Although no precise interpretation of these terms is possible for all countries, the general term "appeal" is used to describe the retrial of a case by a higher court. In some countries, particularly in Western Europe, a distinction is made between appeal on questions of fact and appeal on questions of law. Cassation is ordinarily described as the consideration of errors in the application of law. Usually, when cassation is accepted, the case is transmitted for a new trial. Revision signifies in most cases an exceptional procedure when the sentence is final and no longer subject to appeal, and new facts may have come to light, disclosing a miscarriage of justice. The terms pardon and indulto used in some replies, especially Latin American countries, should be understood to mean the authority to invoke the prerogative of mercy or the power of pardon to commute or reduce any penalty, or to grant reprieve from execution.

^{10/} See Leslie Sebba, "The pardoning power - a world survey", Journal of Criminal Law and Criminology, 1977, vol. 68, pp. 82-121.

53. Of all the aforementioned legal safeguards against capital punishment, the right to petition for pardon, commutation or reprieve is most frequently used as the ultimate remedy. In most responding countries the death sentence cannot be carried out without confirmation by the authority exercising the prerogative of pardon. In such cases it is usually the duty of the sentencing court or the prosecutor to forward the dossier to the pardoning authority. Generally there is a mandatory or tacitly recognized waiting period during which no execution is carried out until a decision has been taken by the pardoning authority.

54. The right to petition for pardon may be regulated by penal or constitutional provisions and in some cases in accordance with an established practice. The power of pardon is usually vested in the head of State but in a few countries the legislature exercises the prerogative of mercy and in some States of the Latin American region a high court has the power to grant gracia.

55. With regard to military offences in some Member States, the general commanding officer or his equivalent may grant pardon, commutation or reprieve. In other States the petition must be submitted to the military court within a certain time, after which the sentence is considered as final. In addition, the head of State, with or without petition, may exercise the prerogative of mercy in some countries.

56. The replies do not always specify the length of imprisonment following a commutation of the death penalty. In some cases reference is made to 20 or 25 years or life imprisonment. In this regard, the pardoning authority exercising the prerogative of mercy, after consultation with other authorities, decides how long a term of imprisonment is to be imposed.

57. The data available on sentencing and executions (see table 1 above) support a tentative conclusion that about two thirds of the convicts sentenced to death in the countries concerned were eventually reprieved. Of the total number sentenced in each region, the proportion of those executed was about 19 per cent in North Africa and the Middle East, about 17 per cent in Africa south of the Sahara, almost 59 per cent in Asia and the Pacific, about 24 per cent in Eastern Europe, about 7 per cent in Latin America and about 12 per cent in Western Europe and North America.

58. This disparity between the number of sentences on the one hand and the number of commuted executions due to pardons, commutations or reprieves granted in Member States during the period under review on the other hand, raises the issue of equal treatment. Criminal justice systems may not always function on an equal basis for all offenders, although a decreasing rate of executions due to commutation of the death sentence in some countries may well be indicative of a trend towards the de facto abolition of capital punishment and, eventually, towards an abolitionist tradition.

59. A country-by-country survey follows of legal remedies in reporting Member States, on a regional basis.

North Africa and the Middle East

60. The responses received from this region reflect a variety of existing political, cultural and legislative traditions. The legal remedies against capital punishment are appeal (Bahrain, Cyprus, Kuwait), cassation (Algeria, Iraq, Morocco, the Syrian Arab Republic, Tunisia), review (Algeria, Tunisia), and objection (Kuwait). There is a mandatory cassation and a mandatory waiting period for execution of not less than 30 days in Iraq, and an obligatory delay of five days in cases of cassation in Tunisia. In Algeria a capital sentence can be reversed within a period of eight days. Any death sentence passed by a criminal court in Kuwait is automatically referred to the High Court of Appeals within one month of the date of the sentence. This penalty can be carried out only after being approved by the Prince. Persons condemned to death are kept in prison until the Prince issues a decision. In Syria the sentence of death is automatically brought before a court of cassation regardless of whether or not it is contested by the convicted person. A person sentenced to death has 30 days from the date of the sentence to appeal in a court of cassation. Under Moroccan law, the sentence may be carried out only in cases where pardon is refused. Similar provisions exist in Bahrain, where execution cannot take place without the approval of the Amir, in Iraq, where the sentence has to be ratified by the President of the Republic, in the Syrian Arab Republic, where the penalty is subject to approval by the President of the State, and in Kuwait, where a death sentence can only be carried out after being approved by the Prince. The right of appeal in capital cases applies to questions of fact and of law and extends to the sentence in Bahrain and in the Syrian Arab Republic, to questions of law and sentence in Algeria and to questions of law in Kuwait. Similar provisions exist in Cyprus, where a condemned person has the right to appeal against conviction on grounds of fact or of law. All countries of the region report that a person sentenced to death has the right to petition for pardon, commutation or reprieve in all cases. In most cases the prerogative of mercy is exercised by the head of State. In the period under review 151 sentences and 29 executions were reported for the region.

Africa south of the Sahara

61. The right of appeal exists in Botswana, Ethiopia, Seychelles, the Sudan, the United Republic of Tanzania and Zambia. Further remedies include cassation and revision (Benin, Sudan). Ethiopia and Seychelles indicated that there is a limited mandatory waiting period between sentencing and execution. Appeal in all cases applies to questions of fact and of law and extends to sentence. A condemned person has the right to petition for pardon, commutation or reprieve in Benin, Botswana, Ethiopia and the Sudan in all cases and in Zambia in some cases. The President exercises the prerogative of mercy in all capital cases in Seychelles, the United Republic of Tanzania and Zambia. During the period under review, a total of 1,279 sentences and 224 executions were reported for the region.

Asia and the Pacific

62. The few countries in the region that replied on this point all indicated that provision is made in their legislations for appeal against the death sentence. Among the additional remedies mentioned are cassation (Afghanistan, Indonesia), pardon (Bangladesh, Indonesia), application for a reopening of proceedings and

extraordinary appeal to the Supreme Court (Japan), review (Afghanistan) and application to the head of State (Samoa). The existence of an automatic appeal is reported by one Member State - Afghanistan. Afghanistan, Bangladesh and Indonesia indicate that there is a mandatory waiting period between sentencing and execution. Although such a period is not provided by the law of Samoa, lodging of an appeal operates as an automatic stay of execution. If there is no appeal or commutation, the head of State authorizes the registrar of the court to carry out the execution within seven days. No mandatory waiting period is reported by Fiji. In Singapore a person condemned to death has the right to appeal against the sentence within 14 days from the pronouncement of the judgement but this period can be waived by the court. The right of appeal in capital cases is provided for by the legislation of Afghanistan, Bangladesh, Japan, Samoa and Singapore and extends to questions of fact, law and sentence, in the legislation of Indonesia to questions of fact and sentence, and in Fiji to questions of fact and of law. The legal provisions show similarities with regard to the right of the person sentenced to death to petition for pardon, commutation or reprieve. This right is provided for, by law, in Bangladesh, Japan, Indonesia, Samoa and Singapore and applies in all cases, and in Fiji it applies to some cases. Such a provision is not, however, included in the law of Afghanistan, where, in practice, the President exercises the prerogative of mercy. During the period under review a total of 713 death sentences and 423 executions were reported for the region.

Eastern Europe

63. Only three responses were received from this region, making it difficult to reflect the situation in the region as a whole. All replies indicate a great similarity of provisions dealing with legal remedies against capital punishment. Among the legal remedies used in the countries of the region are appeal (Hungary), review (Poland), and recourse, revision and extraordinary recourse (Romania). No references are made to the existence of mandatory waiting periods between sentencing and execution, but a death sentence can be carried out only after a petition for pardon has been rejected by the Presidential Council of the People's Republic (Hungary), or capital cases have been officially reviewed by the First President of the Highest Court, the Minister of Justice, and the General Prosecutor, who transmits the case to the People's State Council (Poland). The law of Romania provides that a person condemned to death can request a pardon within five days from the passing of the sentence. The right of appeal extends to questions of fact, law and sentence (Poland, Romania) and to questions of law and fact (Hungary). Poland and Romania have legal provisions allowing a person condemned to death to petition for pardon, commutation or reprieve in all cases. In both countries the court gives its opinion on matters of pardon. During the period under review, 106 sentences and 25 executions were reported by the three countries of the region.

Latin America and the Caribbean

64. The responses from countries of this region indicate the existence of similar legal remedies with regard to capital punishment. The laws of all the reporting countries of the region provide for the right of appeal. In addition, cassation and review are reported by Argentina, Chile and El Salvador, and review by Guyana. The existence of an automatic appeal or mandatory waiting period between

sentencing and execution is not indicated. In capital cases the law provides the right of appeal and extends to questions of fact and of law and sentence in Argentina and Chile, and to questions of fact and law in Barbados, Bolivia and El Salvador. All the responding countries of the region provide for the right to petition for pardon, commutation or reprieve in all cases. The law of Guyana provides that the President may grant a pardon to any person convicted of any offence. Thirty persons were sentenced to death and two were executed, as reported by one country in the region.

Western Europe and North America

65. The number of replies from countries of this region was relatively high. Most of the responding countries are completely abolitionist. Consequently little information on legal remedies and practices with regard to capital punishment was called for. Such information was given, however, by three retentionist countries (France, Greece, Israel), and three abolitionist countries "for ordinary crimes only" (Canada, Netherlands, United Kingdom). The remedies mentioned are appeal (Canada, Israel, Netherlands, United Kingdom), cassation (Belgium, France, Greece, Netherlands), revision (Belgium, France) and petition upon discovery of new evidence and administrative reviews (Canada). All responding countries indicate that by law a person sentenced to death is entitled to petition for pardon. In France and Israel the petition for pardon is automatic and applies in all cases. In Canada the Governor-General must approve the death sentence and the findings of a court-martial, and the sentences imposed are subject to review by military authorities. Petition for pardon has to be submitted within five days in Greece. Where the capital sentence is irreversible, it has to be submitted to the competent authority for pardon. If the execution does not take place within three years from the date of sentence, the death penalty is automatically commuted to life imprisonment. In the Netherlands a petition for pardon has to be submitted within eight days following the final sentence, which is suspended. No execution is to be carried out in the United Kingdom before the expiry of the time-limit for appeal (28 days). The right to appeal exists in Canada as to questions of fact and of law and extends to sentence. Belgium reports that the right of appeal applies as to questions of fact in certain cases. In Belgium and Greece the right of cassation extends to questions of law; in cases where cassation is granted, there is a re-trial. By law in the United Kingdom the right to appeal in capital cases is provided for as to questions of fact and of law. In Israel the right of appeal may extend to questions of fact and of law. In the period under review 85 persons were sentenced to death and 10 were executed in the region.

66. The regional presentation of legal remedies which may govern the right of a person sentenced to capital punishment to petition for pardon, commutation or reprieve indicates that nearly all reporting States provide some mechanism by which the penalty of death can be appealed and reversed. The extent to which they function in practice varies from country to country and only a limited picture of the existing practices in Member States can be presented on the basis of available information. The information presented should be examined in conjunction with the number of sentences and executions reported for every country. In general it can be noted that the number of executions, world wide, constitutes about one third of the number of capital sentences imposed, in all probability, owing to the exercise of pardon, commutation or reprieve.

III. RESEARCH AND STUDIES 11/

67. An analysis of 62 replies from Member States indicates that research initiatives and studies in the realm of capital punishment were rather limited during the period under review. Most Governments report that no current research and reports are being undertaken by national research bodies, and that no governmental action is being taken to promote research in this field. Some abolitionist States report or imply that, by virtue of their abolitionist status, research was neither called for, nor contemplated, during the period under review. The States listed below have supplied affirmative information.
68. Afghanistan states that research in this field is envisaged.
69. In Algeria the question of capital punishment is being studied by universities and by the National Institute of Administration. Research in the field is conducted by the National Committee for Reviewing the Penal Law. The task of this body is to submit to the Government proposals for revisions of the law.
70. Bangladesh indicates that action has been taken by the Government to promote research.
71. Belgium reports that research is being conducted with a view to finding alternatives to capital punishment.
72. Canada cites a publication issued by the Ministry of Justice in 1976 on the issue of capital punishment.
73. Chile reports that the National Institute of Penal Sciences has undertaken various studies to promote research into capital punishment.
74. Japan reports that the Research and Training Institute of the Ministry of Justice is at present carrying out research into the question of the boundary between capital punishment and life imprisonment in recent court decisions.
75. Luxembourg reports that the research and reports of ad hoc commissions charged by the Government with the study of the abolition of the death penalty resulted in the law of 20 June 1979, which completely abolished the death penalty.
76. Poland cites the publication of a monograph in 1978 on the historical aspects and the present state of capital punishment.
77. Spain cites attitudinal studies conducted in 1975, 1977, and 1978 on the abolition of capital punishment.
78. The Syrian Arab Republic reports that a number of committees have been charged with the study of the subject.

11/ For a list of relevant literature, see the international bibliography issued by the United Nations Social Defence Research Institute in 1978.

79. The United Kingdom cites a review of the literature on deterrence, funded by the Home Office.

80. The United Republic of Tanzania reports that governmental action has been undertaken to promote research in the field.

IV. CONCLUSIONS

81. Although, at the international level, the period under review was marked by strong movements and actions towards the abolition of capital punishment, including those taken by the General Assembly, the Economic and Social Council and other United Nations bodies, international concern about the present status of the death penalty would appear to require still further reflection amongst Member States. Indicative of the situation is the fact that many more replies were received from abolitionist countries than from retentionist countries (see annex below).

82. Thus, official information was not available from the majority of the retentionist countries, particularly from some which rely heavily on the use of capital punishment. The limited information received from some other retentionist countries does not indicate any major progress towards change in policy with regard to the restriction or abolition of the death penalty.

83. While replies indicate that there has been a small increase in the number of abolitionist countries since 1974, the affect of this change on the global situation is not sufficient to allow for the optimism envisaged by the United Nations. ^{12/} Conversely, abolitionist movements have occurred simultaneously or in conjunction with a tendency to re-introduce the death penalty, sometimes under the pressure of public opinion or as the result of a change of political systems or the use of this penalty as a political tool.

84. It should be pointed out that the present document, because of its limitations, does not address itself to the question of extrajudicial executions, which are increasing in certain countries retentionist and abolitionist alike. At the same time, there are indications that in the five-year period under review the total number of such de facto executions, involving missing and "disappeared" persons, may exceed the total number of reported judicial executions carried out throughout the world in the same period.

85. In the light of these circumstances, no pretence can be made of providing a complete regional or global view of the situation concerning the death penalty, or of giving a detailed or even general account of the precise situation of the law and practice of Member States, and, in fact, any generalization concerning the progress made towards the restriction or abolition of capital punishment might be misleading. Further efforts may be called for on the part of the United Nations to pursue its declared principal objective in this area - the ultimate total abolition of the death penalty in all countries.

^{12/} See General Assembly resolution 32/61 and earlier resolutions on this issue.

Annex

THE STATUS OF CAPITAL PUNISHMENT IN STATES MEMBERS
OF THE UNITED NATIONS

The States Members of the United Nations are listed below by region and according to their policies regarding capital punishment. "Abolitionist by law" means that the country's laws do not provide for the death penalty. "Abolitionist by law for ordinary crimes only" means that the death penalty is imposed for exceptional crimes, i.e. those subject to military law and/or committed in exceptional circumstances, for example in wartime. "Abolitionist by custom" means that, although the country's laws provide for the death penalty for ordinary crimes, either nobody has been sentenced to death for the past 40 years or more, or nobody sentenced to death in that period has been executed. a/ A "retentionist" country is one that imposes capital punishment for ordinary crimes (such as murder, rape, theft etc.). Finally, some federated nations may be divided on the subject, the jurisdiction of some States being abolitionist while that of other States is retentionist. Such is the case in Australia and the United States of America.

a/ Many new nations whose laws provide for capital punishment have not in fact executed anyone sentenced to death, but since most of these States have been in existence for less than 25 years, it is difficult to ascertain whether this is the result of a deliberate policy.

States Members of the United Nations by region and by
status of capital punishment b/

- A Abolitionist by law
AO Abolitionist by law for ordinary crimes only
AC Abolitionist by custom
R Retentionist
D Federal nations divided on the issue, some States being abolitionist and others retentionist.

1. North Africa and the Middle East

ALGERIA*	R	LIBYAN ARAB JAMAHIRIYA	R
BAHRAIN*	R	MOROCCO*	R
CYPRUS*	R	OMAN	R
DEMOCRATIC YEMEN	R	QATAR	R
EGYPT	R	SAUDI ARABIA	R
IRAN	R	SYRIAN ARAB REPUBLIC*	R
IRAQ*	R	TUNISIA*	R
JORDAN	R	TURKEY	R
KUWAIT*	R	UNITED ARAB EMIRATES	R
LEBANON	R	YEMEN	R

b/ An asterisk indicates an official response to the present survey. For non-responding countries the information supplied in these tables rests on research conducted by the Secretariat.

2. Africa south of the Sahara

ANGOLA	R	MALI	R
BENIN*	R	MAURITANIA	R
BOTSWANA*	R	MAURITIUS	R
BURUNDI	R	MOZAMBIQUE	R
CAPE VERDE*	A	NIGER	R
CENTRAL AFRICAN REPUBLIC	R	NIGERIA	R
CHAD	R	RWANDA*	R
COMOROS	R	SAO TOME AND PRINCIPE	R
CONGO	R	SENEGAL	R
DJIBOUTI	R	SEYCHELLES*	R
EQUATORIAL GUINEA	R	SIERRA LEONE	R
ETHIOPIA*	R	SOMALIA	R
GABON	R	SOUTH AFRICA	R
GAMBIA	R	SUDAN*	R
GHANA	R	SWAZILAND	R
GUINEA	R	TOGO	R
GUINEA-BISSAU	AO	UGANDA	R
IVORY COAST	R	UNITED REPUBLIC OF CAMEROON	R
KENYA	R	UNITED REPUBLIC OF TANZANIA*	R
LESOTHO	R	UPPER VOLTA	R
LIBERIA	R	ZAIRE	R
MADAGASCAR	R	ZAMBIA*	R
MALAWI	R		

3. Asia and the Pacific

AFGHANISTAN*	R	MALDIVES	R
BANGLADESH*	R	MONGOLIA	R
BHUTAN	R	NEPAL*	AO
BURMA	R	PAKISTAN	R
CHINA	R	PAPUA NEW GUINEA	A
DEMOCRATIC KAMPUCHEA	R	PHILIPPINES	R
FIJI*	R	SAMOA*	R
INDIA*	R	SINGAPORE*	R
INDONESIA*	R	SOLOMON ISLANDS	A
JAPAN*	R	SRI LANKA	R
LAO PEOPLE'S DEMOCRATIC REPUBLIC	R	THAILAND	R
MALAYSIA	R	VIET NAM	R

4. Eastern Europe

ALBANIA	R
BULGARIA	R
BYELORUSSIAN SOVIET SOCIALIST REPUBLIC	R
CZECHOSLOVAKIA	R
GERMAN DEMOCRATIC REPUBLIC	R
HUNGARY*	R
POLAND*	R
ROMANIA*	R
UKRAINIAN SOVIET SOCIALIST REPUBLIC	R
UNION OF SOVIET SOCIALIST REPUBLICS	R
YUGOSLAVIA	R

5. Latin America and the Caribbean

ARGENTINA*	R
BAHAMAS	R
BARBADOS*	R
BOLIVIA*	R
BRAZIL*	AO
CHILE*	R
COLOMBIA*	A
COSTA RICA*	A
CUBA	R
DOMINICA	R
DOMINICAN REPUBLIC	A
ECUADOR*	A
EL SALVADOR*	R
GRENADA	R
GUATEMALA	R
GUYANA*	R
HAITI	R
HONDURAS	A
JAMAICA	R
MEXICO*	AO
NICARAGUA	A
PANAMA*	A
PARAGUAY	R
PERU	R
SAINT LUCIA	R
SURINAME	R
TRINIDAD AND TOBAGO	R
URUGUAY*	A
VENEZUELA*	A

6. Western Europe, North America, Australia, New Zealand
and Israel

AUSTRALIA	D
AUSTRIA*	A
BELGIUM*	R
CANADA*	AO
DENMARK*	A
FINLAND*	A
FRANCE*	R
GERMANY, FEDERAL REPUBLIC OF*	A
GREECE*	R
ICELAND*	A
IRELAND	R
ISRAEL*	AO
ITALY*	AO
LUXEMBOURG*	A
MALTA*	AO
NETHERLANDS*	AO
NEW ZEALAND	AO
NORWAY*	A
PORTUGAL*	A
SPAIN*	AO
SWEDEN*	A
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND*	AO
UNITED STATES OF AMERICA	D
