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INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Elaboration of a second optional protocol to the International  
Covenant on Civil and Political Rights, aiming at the abolition  
of the death penalty

Report of the Secretary-General

Addendum

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EGYPT

/Original: Arabic/

/28 October 1981/

1. The Ministry of Justice has stated that the death penalty cannot be abolished in the cases where it is laid down as hadd (prescribed castigation decreed by God or the Prophet) or qisas (equal retribution) but that the death penalty may be commuted in those cases where it is laid down as ta'zir (deterrent). It is necessary for us to give an account of hadd, qisas and ta'zir in the Islamic Sharia, of the death penalty in ancient and modern positive law and then of the death penalty in Egyptian legislation, in order that we can decide on the suitability of agreeing to the abolition of that penalty or of not agreeing to its abolition.

I. Hadd, qisas and ta'zir in the Islamic Sharia

2. The term "hadd offences" means offences punishable by a preordained specified penalty having no maximum or minimum. This is God's right and is not susceptible to abrogation by individuals or the community. In brief, these offences, which are seven in number, are the following: fornication, slander, drinking intoxicating liquors, theft, highway robbery, apostasy and transgression (baghy).

3. The qisas and blood money offences, which are five in number, are the following: deliberate murder, quasi-deliberate murder, accidental murder, a deliberate offence less than murder and an accidental offence less than murder.

4. The penalty for these offences is regarded as the right of individuals, and it may be waived. Ta'zir offences are not specified, and the penalty for them is discretionary in accordance with the circumstances of the offence and the offender.

5. From the above it is clear that, in the case of hadd offences, the death penalty laid down for some of them cannot be commuted, because it is God's right, and the offender cannot be pardoned. In the case of the qisas penalty, the injured party or his representative has the right of pardon. Ta'zir penalties are left to the judge and have a maximum and a minimum.

II. The death penalty in old and new positive law

6. The death penalty has existed since the most ancient times, and its sphere of application has been large. The development of thought has led to a change in viewpoint on this penalty in the majority of European States, and doubt has been cast on its legality. Opinion on it is divided in those European States, between supporters and opponents, and the matter has developed to the point of

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