



ACHRS 4TH Annual Report

The Death Penalty in the Arab World

2009

1. INTRODUCTION

ACHRS Statement against the Death Penalty

ACHRS opposes and actively campaigns against the death penalty in all cases and every form no matter where it is used. It considers the death penalty a violation of the right to life and the ultimate form of inhuman, cruel, and degrading punishment.

In its stance against the death penalty, the organization in no way condones violent crime nor questions the responsibility of governments to ensure that those who commit such crimes are brought to justice. In carrying out this responsibility, however, governments must abide by relevant international law and standards, including the abolition of the death penalty and the prohibition of torture.

ACHRS recognizes that capital punishment has not proven to be an effective deterrent for violent crimes. The organization also emphasizes that execution is permanent and that as long as the death penalty is in practice, the risk of executing the innocent can never be eliminated.

ACHRS Work on the Death Penalty

ACHRS and its partner organization the Arab Coalition against the Death Penalty (ACADP), believe that securing the abolition of the death penalty in the Arab World is crucial to developing a genuine human rights culture in the Middle East and North Africa.

In 2007, ACHRS along with ACADP co-organized three seminars on capital punishment in Mauritania, Yemen, and Egypt. In cooperation with Penal Reform International the two organizations also arranged a seminar in Amman entitled "Death Penalty: Challenges and Alternatives" in July of the same year.

Our work on this important issue continued throughout 2008, with a co-organized workshop on the death penalty with the MAAT Center for Judicial Studies – Amman in March. In May 2008 ACHRS participated in a regional conference in Alexandria, Egypt on "The Establishment of a Moratorium on the Use of the Death Penalty in the Arab World." The conference was organized by Penal Reform International, the Swedish Institute in Alexandria, and MAAT. The conference saw the participation of hundreds of abolition activists from the Middle East and North Africa.

To mark the World Day against the Death Penalty on October 10, 2008, ACHRS launched a webpage detailing our work towards abolishment of the death penalty (dp.achrs.org) and issued a press release reaffirming our commitment to the abolition of the practice in its entirety.

Keeping in tune with our commitment to abolition across the Arab World, in 2009 ACHRS continued to coordinate and participate in activities to achieve that goal. ACHRS and the Jordanian Alliance against Capital Punishment held a session of

dialogue to oppose the death penalty. Several members of the Alliance, including academics, party officials, intellectuals, media workers, and human rights activists participated in the dialogue. Moreover, ACHRS and ACADP participated in the World Coalition against the Death Penalty General Assembly in Rome on the 13-14 of June 2009. The Arab Coalition against the death penalty was elected, along with twenty other organizations, to be part of the Steering Committee of the World Coalition against the Death Penalty (WCADP). The international relations coordinator represented ACHRS and ACADP at a steering committee meeting held to make final preparations for the 4th World Congress against the Death Penalty to be held in Geneva in February 2010. Center Director of ACHRS and executive coordinator of ACADP, has been asked to speak at the Middle East and North Africa Roundtable at the Congress. Moreover, several members from ACADP are set to attend the Congress in an effort to further develop the international network.

We are therefore pleased to demonstrate our commitment to this field by presenting our 2009 report on the Death Penalty in the Arab World. The report provides a brief overview of the death penalty in 2009, general information about capital punishment in the Arab World, and detailed information about the 21 Arab countries. Also included are tables, graphs, and a conclusive reflection on the state of capital punishment.

2. AN OVERVIEW ON THE DEATH PENALTY

According to official statistics, executions across the world have been steadily increasing. In 2007 at least 3,347 people were sentenced to death in 51 countries and at least 1,252 people were actually believed to be executed in 24 of those countries. During 2008 at least 8,864 people were sentenced to death in 52 countries and at least 2,590 people were executed in 25 countries around the world. The year 2009 saw the execution of at least 2,982 people. It should be noted that these numbers are extremely conservative because it is difficult to obtain accurate statistics from countries such as Iran, Saudi Arabia, and China – the countries with the most yearly executions in the world. China, Iran, Saudi Arabia, North Korea and the United States were the major executors of capital punishment, with China alone carrying out over 70 per cent of all of the executions (at least 1,750 executions).

Despite these discouraging statistics, there seems to be a general trend toward the abolition of the death penalty. Only 25 of the 59 countries across the world that retain the death penalty have reportedly put it to use in 2009. The United Nations General Assembly's 62nd Session in 2007 introduced a resolution calling on the full ban of capital punishment across the world. The resolution saw 99 votes in favor with 52 opposed, and 33 abstentions. The resolution states that “that there is no conclusive evidence of the death penalty’s deterrent value and that any miscarriage or failure of justice in the death penalty’s implementation is irreversible and irreparable.”¹ Again in 2008 a similar resolution was adopted by the General Assembly, this time 105 countries voted in favor, 48 voted against, and 31 abstained. The adoption of this

¹ United Nations General Assembly, "General Assembly backs global moratorium against the Death Penalty," <http://www.un.org/ga/news/news.asp?NewsID=24679&Cr=general&Cr1=assembly> 11-15-2007

resolution and its increasing popularity displays a general willingness by the international community to move away from the death penalty. The majority of the executions in 2009 were carried out in Asia (at least 1,846) followed by the Middle East and North Africa (at least 515 executions across the Arab World and 346 in Iran). There were 53 executions across the Americas, 52 of which were carried out in the United States alone.

Europe is the only death penalty-free region of the world, with the exception of Belarus, where at least four people were executed in 2008. There are 59 countries in the world that still retain the death penalty. In total, 138 countries are abolitionist, either in law or in practice. Of those, 92 countries are abolitionist for all crimes, 10 of which retain it for crimes committed in exceptional circumstances (such as in time of war) and 36 are abolitionist in practice (defendants are sentenced to death but not executed).²

3. DEATH PENALTY IN THE ARAB WORLD IN 2008

Legal Framework

International Law protects the right to life. Article 3 of the Universal Declaration of Human Rights (1948) states that "Everyone has the right to life, liberty and security of person."³

The International Covenant on Civil and Political Rights (ICCPR) 1966 affirms that every human being has the right to life which shall be protected by law. Although the ICCPR does not specifically prohibit the death penalty, the document states that capital punishment may be imposed only for the most serious of crimes and it can only be carried out pursuant to a judgment by competent court.⁴ The same international law forbids the application of capital punishment to people below eighteen years of age and to pregnant women.⁵

Despite the fact that the ICCPR did not fully prohibit the death penalty it has only been ratified by 14 of the 21 Arabic speaking countries.

The **Second Optional Protocol of the ICCPR**, recalling article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights, prohibits the use of the death penalty.⁶ It was adopted in 1989 but only one Arab country, Djibouti, has ratified it.⁷

² Amnesty International, "Figures on the Death Penalty," <http://www.amnesty.org/en/death-penalty/numbers>

³ Universal Declaration of Human Rights, approved by the General Assembly of the United Nations, December 10, 1948

⁴ Article 6, International Covenant on Civil and Political Rights, adopted and open for signature, ratification, and accession by the General Assembly. Resolution 2200A (XXI), December 16, 1966

⁵ Ibid

⁶ Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted and proclaimed by General Assembly resolution 44/128, December 15, 1989

⁷ United Nations Human Rights Council, <http://www.unhchr.ch/pdf/report.pdf>

On 18 December 2008, the UN General Assembly adopted Resolution 63/168 (2008) establishing a “moratorium on the use of the death penalty,” reaffirming the previous Resolution 62/149 of 18 December, 2007. The adoption of a second moratorium resolution highlights UN commitment to abolition of the death penalty. These resolutions call on retentionist states to respect international standards guaranteeing the rights of those facing the death penalty, to review their use of the death penalty by reducing the number of offences for which the death penalty may be imposed, and by establishing a moratorium on executions with the ultimate goal of eventual abolition of capital punishment for all crimes.

As previously alluded to, the UN General Assembly adopted a moratorium on the death penalty in 2007 and 2008. Resolution 63/168 adopted by the General Assembly in its 63rd session called on the suspension of the death penalty throughout the world. The 2008 votes of approval rose (105) rose from the previous year (99) displaying a significant shift in attitudes toward the death penalty.

Eight members of the Arab League abstained in 2008. Algeria, cosponsored and voted in favor of the resolution. Somalia is the only other member of the Arab League that voted in favor of the resolution.

In May 2007, representatives of Arab civil society organizations and Arab NGO coalitions challenged the death penalty in Egypt. The NGOs representing a wide variety of concentrations met to discuss the implementation of UNGA Resolution 62/149 (2007) by Egypt and the rest of the Arab League. The meeting was organized by the Swedish Institute in Alexandria, in partnership with Penal Reform International [PRI], Amman Center for Human Rights Studies [ACHRS], and MAAT Centre for Lawyers and Constitutional Studies. The conference saw the participation of representatives from the Cairo EC delegation, the UN High Commissioner for Human Rights, the Arab League, and Amnesty International.

The "Alexandria Declaration," issued at the end of the meeting, called upon Arab States to comply with UNGA resolution 62/149 (2007), by respecting international standards and to guarantee the rights of individuals facing the death penalty. The resolution also called on Arab States to provide the Secretary General with information relating to the use of capital punishment. Lastly, the Alexandria Declaration called on members of the Arab League to progressively restrict the use of the death penalty by establishing a moratorium on executions with a view to abolishing the death penalty entirely—for all crimes.

The declaration also highlighted the necessity for member states of the Arab League to consider amending article 7 of the Arab Charter on Human Rights in order to eliminate any possibility of applying the death penalty to persons under 18 years of age.⁸ Many Arab governments, while strictly secular in nature, attempt to justify the use of the death penalty through Islamic Sharia'a Law. According to tolerant interpretations of Islamic Sharia'a, the death penalty is used as a deterrent measure, whose application should be restricted to a very limited number of cases determined by the infallibility of witnesses and the absolute fairness of judges. Even then Sharia'a

⁸ Alexandria Declaration Calling upon the Arab Countries to Implement the United Nations General Assembly Resolution 62/149 on the Establishment of a Moratorium on Executions, 14th May 2008

permits forgiveness and reconciliation.⁹ Since, it has been proven that the death penalty is not an effective crime deterrent the method of punishment should be sacked entirely.

As part of the steering committee for the World Coalition against the Death Penalty, ACADP (currently headed by ACHRS), has been working to increase public awareness on capital punishment. Moreover, the Coalition has been working to further develop its international network in order to gain more leverage in its activities toward abolition at home. The 4th World Congress against the Death Penalty in Geneva, February 2010, will be yet another platform for the ACADP and partner organizations to release another declaration calling on Arab States to adopt the principles of the United Nations Moratorium on the Death Penalty.

Sentences and Execution in the Arab World

In 2008 at least 671 people were sentenced to the death penalty in the Arab world and more than 164 people were executed, creating a 7.5% correspondence rate of the total number of executions carried out worldwide. Almost 4 out of 5 Arab countries retain capital punishment, compared to the world average of 3 out of 10. For 2009, Amnesty International reported that Iraq, Saudi Arabia, Sudan and Yemen have all sentenced numerous people to death after holding clearly unfair trials. Djibouti is the only country in the League of Arab States that remains abolitionist for all crimes. No executions have been carried out for some years in Algeria, Morocco/Western Sahara, and by the Palestinian Authority, although capital punishment is still not completely outlawed. Lastly, it should be recalled that 6 out of 16 Arab retentionist States did not carry out executions in 2009. This is a positive indicator that these countries are taking positive steps to eventually abolish the death penalty.¹⁰

4. COUNTRY PROFILES ON THE DEATH PENALTY

ALGERIA

Death Penalty: abolitionist in practice

Government: republic

Method of execution: shooting

Date of last execution: 1993

Algeria's laws prescribe the application of the death penalty for serious offences including: treason and espionage, attempts to change the regime or actions aimed at incitement, destruction of territory, sabotage to public and economic utilities, massacres and slaughters, participation in armed bands or in insurrectionary movements, counterfeiting, murder, acts of torture or cruelty, kidnapping and aggravated theft. In 1992 the scope of the death penalty was extended to include terrorist offences.

Despite the high number of sentences to death (at least 200 in 2009), no executions have been carried out since 1993. Algeria is therefore an abolitionist country in practice. Algeria is a party to the ICCPR, but it has not signed the Second Optional

⁹ Ibid

¹⁰ Amnesty International "Death Sentences and Executions"

Protocol yet. In 2007 it voted in favor of the UN Resolution 62/149 and in 2008 co-sponsored and voted in favor of the UN Resolution 63/168. ACHRS commends Algeria's abolitionist practice. The Amman Center encourages Algeria to fully abolish the death penalty in law so as to prevent the sentencing of death altogether.

BAHRAIN

Death Penalty: retentionist

Government: Constitutional Monarchy

Method of execution: firing squad

Date of last execution: 2008 (1 execution)

Capital punishment is prescribed in case of premeditated murder, plotting to topple the regime, collaborating with a foreign hostile country, threatening the life of the Emir, defiance of military orders in time of war or martial law, and drug trafficking.

In January 2008 an amendment to the 1976 Penal Code to repeal the death penalty for drug trafficking was defeated in the Shura Council.¹¹

The first execution in 20 years took place in 1996. One execution is reported to have been carried out in 2008. Execution is usually carried out by a firing squad: the inmate is strapped to a chair with his/her eyes covered while a sponge is placed on their chest to stop the blood from spilling rapidly.¹²

Bahrain abstained on the UNGA resolution calling for a Moratorium on the use of the death penalty on December 18, 2008. It was a positive move forward as the country voted against the previous resolution in 2007. Bahrain ratified the ICCPR in 2006 but is yet to ratify the Second Optional Protocol.

COMOROS

Death Penalty: abolitionist in practice

Government: Federal republic

Method of execution: firing squad

Date of last execution: 1997

The last reported execution in Comoros was in 1997, however Comoros remains a retentionist country. Comoros is yet to ratify the ICCPR and it voted against the last UN Resolution calling for a moratorium on the use of the death penalty, reaffirming its position from 2007.

DJIBOUTI

Death Penalty: abolitionist

Government: Semi-Presidential Republic

Date of last execution: none since independence

Djibouti the only country in the Arab League that does not issue capital punishment, officially abolished the death penalty in 2005. Reportedly no executions have taken place since the country gained its independence from France. Moreover, Djibouti is

¹¹ Amnesty International, "Annual Report,"
<http://www.amnestyusa.org/annualreport.php?id=ar&yr=2008&c=BHR>

¹² www.handsoffcain.info

the only Arab State to ratify the Second Optional Protocol. Uncharacteristically, however, Djibouti abstained on both 2007 and 2008 UNGA resolutions on the death penalty. Nonetheless, ACHRS praises Djibouti for setting a positive example for the rest of the Arab League.

EGYPT

Death Penalty: retentionist

Government: Semi-presidential Republic

Method of execution: hanging, firing squad

Date of last execution: 2008 (at least 2 executions)

Egyptian laws mandate the death penalty for the following offences: rape (if accompanied by kidnapping of the victim), murder, treason, and organized drug trafficking. Egyptian laws are often unclear or obscure as to what type of crime warrants capital punishment. For example, Article 77 of the Penal Code, states: “it shall be sentenced to death whoever deliberately committed an act threatening the independence of unity of the country or the territorial integrity.”¹³ It is difficult to determine what kind of crime would be categorized under this article.

At least 2 executions and more than 87 sentences to death were reported in 2009.¹⁴ Egypt ratified the ICCPR in 1982 but it is not party to the Second Optional Protocol and it voted against the UN Resolutions on moratorium in 2007 and in 2008. Furthermore, the Egyptian state security office is seeking to issue the death penalty for six alleged Hezbollah operatives. The final verdict has been pushed back to February 20, 2010.¹⁵ Egypt is urged to refrain from sending more people to the gallows and to take steps toward the full implementation of the ICCPR and to ratify international agreements on the death penalty.

IRAQ

Death Penalty: retentionist

Government: Parliamentary Republic

Method of execution: firing squad, hanging

Date of last execution: 2009 (at least 120 executions)

Iraq is a retentionist country, recording the highest number of executions in the Arab World in 2009. In 2008 Iraq reportedly executed 38 people. The number increased dramatically in 2009 to at least 120 executions. This horrifying increase in executions along with the record number of death sentences issued in 2009 is a cause for great concern.¹⁶

¹³ Arab Penal Reform Organization APRO "Death Penalty in the Arab World A Study on Death Penalty in 11 Arab Countries"

¹⁴ Amnesty International, "Amnesty International Report 2009 – Egypt," <http://thereport.amnesty.org/en/regions/middle-east-north-africa/egypt>

¹⁵ Los Angeles Times, "Egypt: Prosecution demands death penalty for six in 'Hezbollah cell,'" <http://latimesblogs.latimes.com/babylonbeyond/2010/01/egypt-prosecution-demands-death-penalty-for-six-of-the-hezbollah-cell.html>

¹⁶ Amnesty International, "Over 900 People on Death Row Face Imminent Execution," December 4, 2009 <http://www.amnesty.org/en/news-and-updates/news/over-900-people-death-row-iraq-face-imminent-execution-20091204>

The death penalty in Iraq was suspended briefly in April 2003 after the invasion. It was reinstated in August 2004, marking a regression counter to the worldwide trend of slowly steering away from the death penalty.¹⁷

In 2009 the majority of death sentences were issued by the Central Criminal Court of Iraq or by the Supreme Iraqi Criminal Tribunal. The latter was established to try former senior officials of the previous regime including Saddam Hussein himself. Local and international human rights organizations expressed their concern about the fairness of trials conducted by the aforementioned courts. The courts, it seems failed to meet international judicial standards by wide margins.¹⁸

As of December 2009, at least 900 Iraqis were on death row made to wait for their execution dates. Amnesty international reports that there are no official figures released on the number of prisoners currently on death row. This figure is nothing more than an estimate, and the number could in fact be much higher.

The current war in Iraq has been used as a pretext to carry out such high number of executions. Iraqi laws mandate the application of the death penalty for murder, endangering national security, distributing drugs, rape, attacks on transport convoys, and financing and execution of terrorism. Since 2004 at least 1,000 people have been sentenced to death and scores have been executed.¹⁹

In June 2008, the Kurdish Parliament extended the application of the 2006 anti terrorism law for a further two years. The law has mandated countless death sentences in the Kurdistan region of Iraq. Furthermore, Iraqi laws fail to provide essential human rights safeguards for people facing a possible death sentence. The judicial system fails to offer people the right to a pardon or reasonable appeal to their sentence.²⁰

Iraq joined the ICCPR IN 1971, but it falls short of full implementation of international standards articulated by the ICCPR. Iraq has not ratified the Second Optional protocol and voted against the UNGA moratorium in 2007 and 2008.

JORDAN

Death Penalty: retentionist

Government: Constitutional Monarchy

Method of Execution: firing squad, hanging

Date of last execution: 2005

At least 14 people were sentenced to death in Jordan in 2009. The last reported execution took place in 2005. Jordan is a retentionist country, but has been abolitionist in practice for over four years now.²¹

¹⁷ Amnesty International, "Death Sentences and Executions"

¹⁸ Amnesty International, "Iraq: Unjust and Unfair: the Death Penalty in Iraq"

¹⁹ Amnesty International, "Over 900 people on Death Row in Iraq Face Imminent Execution," December 4, 2009, <http://www.amnesty.org/en/news-and-updates/news/over-900-people-death-row-iraq-face-imminent-execution-20091204>

²⁰ Amnesty International, "Iraq: Unjust and Unfair: the Death Penalty in Iraq"

²¹ Amnesty International, "2009 Annual Report for Jordan"

<http://www.amnestyusa.org/annualreport.php?id=ar&yr=2009&c=JOR>

A law passed in 2006 reduced the amount of crimes punishable by the death penalty. Death sentences however are still issued to those who commit murder, rape, terrorism, participate in drug trafficking, treason, or espionage. ACHRS as part of the Jordanian Coalition against the Death Penalty makes note that the Terrorism Prevention Act, also passed in 2006 implicitly increases the scope of the death penalty due to its vague description of terror and terrorism.²²

It must be noted in the following terms: Two laws were passed in 2006. The first reduced the amount of crimes punishable by the death penalty. The other law (Terrorism Prevention Act) implicitly increased the scope of the death penalty by vaguely defining what constitutes terror and terrorism.

Jordan has been party to the ICCPR since 1975, but is yet to sign the Second Optional Protocol. Since 2005, Jordan has taken important steps towards abolition. In 2007 Jordan voted against UNGA Moratorium Resolution. The country abstained the following year.

The vote of abstention as well as the aforementioned 2006 law are progressive steps in the right direction. Jordan however is urged to adopt the Second Optional Protocol and to move towards full abolition law.

In 2009, ACHRS was elected to hold the secretariat of the Jordanian Coalition against the Death Penalty (created in 2007).

KUWAIT

Death Penalty: retentionist

Government: Constitutional Hereditary Emirate

Method of execution: hanging, firing squad

Date of last execution: 2007

Kuwait is a retentionist country that has executed 72 people since its independence from Great Britain. Kuwaiti laws are claimed to be derived from the Islamic Shariah. The death penalty is issued for murder, rape, and crimes against the security of the state. Since 1995, capital punishment has been mandatory for certain drug-related offences.

In 2009, at least 5 people were sentenced to death, but no executions have been reported.²³ Kuwait has been party to the ICCPR since 1996, but is yet to ratify the Second Optional Protocol. The country voted against the UNGA Moratorium Resolution in both 2007 and 2008.

²² World Coalition Against the Death Penalty, "Fighting against the Death Penalty in the Arab World," June 2008.

²³ Amnesty International, "Kuwait: Migrant Worker Faces Execution," January 25, 2010, <http://www.amnesty.org/en/library/info/MDE17/001/2010/en>

LEBANON

Death Penalty: retentionist

Government: Parliamentary Republic

Method of execution: firing squad, hanging

Date of last execution: 2004

There are at least 40 prisoners who remain on death row in Lebanon. The last execution reportedly took place in 2004.

Lebanon has been a member of the ICCPR since 1972, but it is yet to ratify the Second Optional Protocol. In October 2008, Justice Minister Ibrahim Najjar submitted to Cabinet a draft law to abolish the death penalty and replace it with a maximum conviction of lifelong imprisonment or hard labor.²⁴

Lebanon abstained in the last vote on the UNGA Moratorium Resolution, suggesting a positive sign toward eventual abolition of capital punishment.

LIBYA

Death Penalty: Retentionist

Government: Jamahiriya (State of the Masses)

Method of execution: firing squad, hanging

Date of last execution: 2009 (at least 8)

Libya remains a retentionist country that uses the death penalty with high frequency. In 2008 at least 8 people were executed and an unknown number of people were sentenced to death. It still remains unclear of how many people were executed in 2009. There are no reliable numbers that have been released to date.

The law mandates the capital punishment for any person associated with a group opposed to the principles of the 1969 revolution, for high treason, for attempting to forcibly change the form of government, and for premeditated murder.

Article 206 of the penal code issues the death penalty for those who call "for the establishment of any grouping, organization, or association proscribed by law," and on those who belong to or support such an organization.²⁵

Libya ratified the ICCPR, but not the Second Optional Protocol. It voted against the UNGA Moratorium Resolutions in 2007 and 2008.

ACHRS expresses concern about the human rights situation in Libya, where summary and unfair trials continue to take place and a wide range of offences lead to the death penalty. ACHRS encourages Libya to implement international standards and to move towards abolition of capital punishment.

²⁴ No Death Penalty, "Justice Minister Presents Law to Abolish the Death Penalty," December 10, 2008, <http://nodeathpenalty.santegidio.org/news.aspx?In=en&id=14&n=13312>

²⁵ Hands Off Cain, "Libya," <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=25&nome=libya>

MAURITANIA

Death Penalty: abolitionist in practice
Government: military junta
Method of execution: firing squad
Date of last execution: 1987

Mauritania is abolitionist in practice and it has not carried out an execution since 1987. Despite this positive fact, capital punishment remains in law for premeditated murder, torture, apostasy, homosexuality, and rape (the introduction of Islamic law in 1980 widened the scope of the death penalty to these offences). At least six people were sentenced to death in 2009.²⁶

The existent legislation is a matter of concern, as it implies an evident violation of fundamental rights. Mauritania is a member of the ICCPR, but is to yet to sign the Second Optional Protocol.

On December 18, 2008 Mauritania abstained on the Resolution on a Moratorium on the Use of the Death Penalty at the UN General Assembly, marking a step ahead in comparison with 2007, when it voted against the UN Resolution on the same issue.

ACHRS congratulates Mauritania for having been abolitionist in practice for 21 years, but calls for the ratification of the Second Optional Protocol and for the de jure abolition of the death penalty.

MOROCCO

Death Penalty: abolitionist in practice
Government: Constitutional Monarchy
Method of execution: firing squad
Date of last execution: 1993

The last execution to take place in Morocco occurred in 1993. Since then, Morocco has been abolitionist in practice. Moroccan penal law continues to mandate the capital punishment for civilian as well as military crimes. Crimes such as, aggravated murder, torture, armed robbery, arson, treason, desertion, and attempts on the King's life are punishable by the death penalty. In 2009, at least 4 people were sentenced to death.²⁷

In 2003, following bombings in Casablanca which claimed the lives of at least 43 people, the government enacted a new anti-terrorist law that broadened the range of crimes punishable by the death penalty. The enactment of the law is perceived as a part of the "war on terrorism."

In recent years a debate on the abolition of the death penalty has taken place in Morocco. In 2003 the National Coalition for the Abolition of Capital Punishment in

²⁶ Amnesty International, "Mauritania:2009 Report,"
<http://thereport.amnesty.org/en/regions/africa/mauritania>

²⁷ Amnesty International, "Amnesty World Report 2009: Morocco/Western Sahara,"
<http://asvdh.net/english/?p=540>

Morocco (Coalition Nationale pour l'Abolition de la Peine de Mort au Maroc) was established and began to call for the full abolition of capital punishment.

On October 11-12, 2008 a seminar to discuss the death penalty was held in Rabat. Organized by Ensemble Contre la Peine de Mort (ECPM) and the Conseil Consultatif des Droits de l'Homme, the participants discussed different activist approaches to work towards abolition in Morocco.

In October 2009, ACHRS participated in a conference held in Rabat on democracy, human rights, and local governance in the Middle East and North Africa. Although, the conference was not specifically about the death penalty, many participants took the time to discuss the issue.

The Moroccan government remains hesitant to abolish the death penalty, citing the fact that terrorism is still a problem and Morocco is currently engaged in the "war on terrorism."²⁸

Morocco is party to the ICCPR but not to the Second Optional Protocol. The country abstained from the vote on the resolution for a moratorium on executions at the United Nations General Assembly in 2008.

OMAN

Death Penalty: retentionist

Government: Constitutional Monarchy

Method of execution: n/a

Date of last execution: 2004

Oman remains a retentionist country that is abolitionist in practice. The last reported execution took place in 2004. The country has not issued the death sentence for almost four years. The last death sentence to be issued reportedly took place in 2006.

Oman abstained from vote during the UN General Moratorium Resolution in December 2008. Despite these documented improvements, Oman is urged to join the ICCPR as a forward step to the legal abolition of the death penalty.

QATAR

Death Penalty: retentionist

Government: Emirate

Method of execution: hanging, firing squad

Date of last execution: 2003

The last reported execution in Qatar occurred in 2003. The country has not practiced the death penalty for almost seven years now. Moreover, there were no reports of death sentences in 2009.

According to the national law, murder, offences against the State, drug trafficking, and terrorism are punishable by the death penalty. Also, converting from Islam is a

²⁸ Hands Off Cain,

<http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=25&nome=morocco>

capital offence (as it is considered apostasy) but there are no records of execution for such a crime since 1971.²⁹

Qatar voted against the UNGA Moratorium Resolution in 2007 and 2008. Despite the positive improvements seen in the last seven years, Qatar is urged to legally take steps to abolish the death penalty. ACHRS also urges Qatar to ratify the ICCPR and the Second Optional Protocol.

SAUDI ARABIA

Death Penalty: retentionist

Government: Traditional monarchy

Method of execution: beheading, stoning

Date of last execution: 2009 (at least 42, number unknown)

Saudi Arabia remains a retentionist country with one of the highest records of executions in the world, especially in relation to its population. Saudi Arabia follows a strict interpretation of Islamic law that prescribes the death sentence for murder, apostasy, rape, drug trafficking, highway robbery, sabotage and armed robbery.

In 2008, 102 executions were reported, at an average of two executions per week. The number of executions that took place in 2009 remains unclear.³⁰ As of June 18, 2009 Amnesty International reported that at least 42 people had been executed. As in other years, a disproportionate amount of executions target foreign nationals from developing countries in Asia and Africa.³¹ The death sentences are usually the result of secret and unfair trials. The accused are denied the right to defend themselves and are often unable to follow the court proceedings in Arabic.³²

Action by Christians for the Abolition of Torture (ACAT-France) and Together Against the Death Penalty (ECPM), members of the World Coalition Against the Death Penalty, have launched a campaign against the death penalty in Saudi Arabia titled: "Saudi Arabia: why are foreigners losing their heads?" The campaign condemns the increasing number of executions, and the fact that almost half of all executions involve foreigners.³³

Although Saudi Arabia has ratified the UN Convention on the Rights of the Child (CRC, 1996), Saudi Arabia remains one of the few states which has executed women and minors in recent years. The CRC prohibits capital punishment and sentences of life imprisonment without possibility of release for persons under the age of 18 at the time of the crime.²⁵

²⁹ Hands Off Cain, "Against the Death Penalty in the World,"

<http://www.handsoffcain.info/bancadati/schedastato.php?idstato=12000126&idcontinente=23>

³⁰ Amnesty International "Death Sentences and Executions in 2008", March 2008

³¹ Amnesty International, "Urgent Action: Saudi Arabia," June 2009,
<http://www.amnestyusa.org/actioncenter/actions/uaa15709.pdf?rss=deathpenalty>

³² Amnesty International "Death Sentences and Executions in 2008", March 2008

³³ <http://www.worldcoalition.org/modules/smartsection/item.php?itemid=266>
http://www.acatfrance.fr/petition_detail.php?id=6

No executions of juvenile offenders were reported in 2009, however during Saudi Arabia's Universal Periodic Review (UPR)³⁴, the UN's Committee on the Rights of the Child “urged Saudi Arabia to critically review its legislation with a view to abolishing the imposition of capital and corporal punishment on persons having committed crimes when under 18 years of age.”³⁵

Saudi Arabia is not member of the ICCPR and it voted against the UNGA Moratorium in 2007 and in 2008.

ACHRS is very concerned about capital punishment in Saudi Arabia and the state of human rights in general. Saudi Arabia is urged to undertake adequate measure to reduce human rights violations and eventually move towards the abolition of the death penalty.

SOMALIA

Death Penalty: retentionist

Government: Coalition Government

Method of execution: firing squad

Date of last execution: 2009 (1)

Somalia has been without central government since 1991, and after the breakdown of de jure government, most regions reverted to strict interpretations of Islamic Law. There is an amalgamation of various legal systems and traditions and capital punishment is retained in all existing court systems: Islamic, secular, and traditional clan courts.³⁶

The most recent case of execution was reported in January 2009: an Islamist militia in Somalia executed a Somali politician, Abdirahman Ahmed, accused of betraying his religion by working with non-Muslim Ethiopian forces.³⁷

Despite these negative stories and the relative instability in the country, Somalia voted in favor of the UNGA Moratorium Resoluion in 2008.

This development is viewed as an encouraging step. As a signatory to the ICCPR, ACHRS further encourages Somalia to ratify the Second Optional Protocol and move towards abolition of the death penalty in law.

SUDAN

Death Penalty: retentionist

Government: Republic

Method of execution: hanging, stoning, crucifixion, firing squad

Date of last execution: 2009 (at least 5)

³⁴ The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations. Saudi Arabia was reviewed on the 6th February 2009.

³⁵ <http://www.worldcoalition.org/modules/smartsection/item.php?itemid=326>

³⁶ <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=25&nome=somalia>

³⁷ Source: Agencia AngolaPress, January 17, 2009

Sudan is a retentionist country that regularly executes: at least 4 executions were carried out in 2005, 65 in 2006, 7 in 2007, 1 in 2008, and at least 5 in 2009.

At least 82 people were sentenced to death in 2009. It must be noted that these numbers are not precise; this is simply an Amnesty International estimate. The numbers could in fact be much higher, as the government refuses to any information regarding capital punishment. The majority of the 82 people sentenced to death in 2009 are Darfuri men. They were sentenced to death after clearly unfair trials, allegedly for participating in a May 2008 attack in Khartoum, carried out by the Justice and Equality Movement (JEM).³⁸

In Sudan, the death penalty is issued for sodomy, waging war against the state, apostasy, prostitution, treason, acts that may endanger the independence or unity of the state, murder, armed robbery, weapons possession, and smuggling. Extra-judicial killings and executions of minors are still matters of concern, even though Sudan ratified the Convention on the Rights of the Child that prohibits the application of the capital punishment to persons under the age of 18.

On December 18, 2008 Sudan voted against the UNGA Moratorium Resolution. Sudan is therefore urged to fully implement the already ratified ICCPR and to stop the executions of minors in view of an eventual legal abolition of the death penalty.

SYRIA

Death Penalty: retentionist

Government: Presidential Republic

Method of execution: hanging, firing squad

Date of last execution: 2009 (at least 2)

Syria remains a retentionist country that regularly carries out executions. At least 3 people were reported to have been sentenced to death by the Syrian Government in 2009.³⁹ Official figures are not available; therefore the number of executions and sentences could be much higher than reported.

Capital crimes include: treason, murder, violent robberies, rape, verbal opposition to the government, and membership in the Muslim brotherhood. Syria also applies the death penalty for drug trafficking and for several political acts such as bearing arms against Syria in the ranks of the enemy, desertion of the armed forces, and acts of incitement in wartime.

Syria is party to the ICCPR, but is yet to ratify the Second Optional protocol. Syria voted against the UNGA Moratorium Resolution on a Moratorium Resolution in 2007 and 2008.

³⁸ Amnesty International, "Sudan Death Penalty," April 2009, <http://www.amnesty.org/en/library/asset/AFR54/012/2009/en/2136abc4-2bf6-48af-8fdc-da57606ba8b7/af540122009eng.html>

³⁹ <http://www.handsoffcain.info/bancadati/schedastato.php?idstato=12000084>

Syria is strongly urged to publish reliable data on the use of the death penalty and to take steps to reduce the application of capital punishment, with a view towards full abolition.

TUNISIA

Death Penalty: abolitionist in practice

Government: Republic

Method of execution: hanging, firing squad

Date of last execution: 1991

Tunisia is abolitionist in practice, having carried out the last execution in 1991. Capital punishment however is legally mandated for the following offenses: murder, violence and aggression, attacks against the internal security of the state, and attacks against the external security of the state. Death sentences are generally interpreted to be imprisonment for life.

In February 2008, the Tunis Appeal Court upheld the death sentence against one of 30 men convicted of terrorism.⁴⁰ In March 2009, the Tunisian court of Cassation confirmed the death penalty of a man found guilty of raping and murdering two children.⁴¹

International and domestic human rights organizations, such as the Tunisian Coalition against the Death Penalty and Amnesty International serious breaches of rights to a fair trial in Tunisia.⁴²

Tunisia ratified the ICCPR, but is yet to ratify the Second Optional Protocol. In 2007 and 2008 Tunisia abstained on the UNGA Moratorium Resolutions.

UNITED ARAB EMIRATES

Death Penalty: retentionist

Government: Islamic Federal Constitutional Monarchy

Method of execution: firing squad, stoning, beheading

Date of last execution: 2008 (at least 1)

The United Arab Emirates is a retentionist country that practices execution.

As of 2009, crimes punishable by the death penalty are murder, rape, treason, aggravated robbery, adultery, apostasy, drug-trafficking, environmental pollution and terrorism were later added as capital offences.

Organizing, participating in, or managing any group with the intention of committing terrorist acts has become a capital crime since 2004, when the UAE enacted its first counter-terrorism law.⁴³

⁴⁰ Amnesty International, "Court decision in Tunisia to uphold death penalty is injustice," February 22, 2008, <http://www.amnesty.org.au/news/comments/9486>

⁴¹ <http://www.handsoffcain.info/news/index.php?iddocumento=12304273>

⁴² <http://www.worldcoalition.org/modules/smartsection/item.php?itemid=269>

⁴³ www.privacyinternational.org

In 2008, there was one execution after a two year lull. The country regularly sentences people to death. In 2009, the judiciary sentenced a man to death after he was accused of raping and murdering a four year old boy. It was the fastest conviction in the history of the Dubai court system. The verdict was reached in only four court sessions. The swift nature of the trial is reason for concern.⁴⁴

The UAE remains one of the few Arab countries that are not party to the ICCPR and abstained from voting in the UNGA Moratorium Resolution in 2007 and 2008.

The UAE is strongly urged to ratify the ICCPR, the Second Optional Protocol, and take steps toward legal abolition.

YEMEN

Death Penalty: retentionist

Government: Republic

Method of execution: firing squad

Date of last execution: 2009 (at least 11)

Yemen is a retentionist country in which executions are regularly carried out for a wide range of offences including murder, drug trafficking, rape, sexual offences, speech or action against Islam, acts with the intention of infringing upon the independence of the Republic or its territorial integrity.

Attorney Ahmad Al-Wadei, wrote a paper for the Yemen Times, titled: "Death Sentences in Yemeni Legislation" at a symposium in Sana'a in 2008. He argued that Yemeni legislators have widened the scope of the death penalty in Penal Law by using unlimited, ambiguous, and vague statements.⁴⁵

According to Amnesty International, 24 people were executed in 2005, 30 in 2006, at least 15 in 2007, at least 13 in 2008, and at least 11 in 2009. Hundreds of people remain on death row.

Yemen ratified the Convention on the Rights of the Child and amended Penal Code which states that people under the age of 18 cannot be condemned to the death penalty. Yemen is party to the ICCPR but is yet to sign the Second Optional Protocol. This country voted against the UNGA Moratorium resolution in both 2007 and 2008.

Yemen is strongly urged to reduce the application of the death penalty and to move towards abolition of capital punishment.

PALESTINIAN AUTHORITY

Death Penalty: retentionist

Government: authority over disconnected enclaves of the West Bank, under Israeli military occupation.

Method of execution: firing squad

Date of last execution: 2006

⁴⁴ Emirates Business, "Boy killer denies planned murder," February 8, 2010, http://www.business24-7.ae/Articles/2010/2/Pages/07022010/02082010_27372e16688d49fb8a088a9789986dd5.aspx

⁴⁵ Source: Yemen Times, 22/02/2009.

The Revolutionary Penal Code of the Palestine Liberation Organization drafted in 1979 is the legal system that the Palestinian Authority uses to govern the Palestinian Territories. The legislature has not approved such laws, therefore it is unconstitutional to continue to work in that legal framework. Palestinian human rights organizations have long called for a new legal system to be introduced in the West Bank and the Gaza Strip. The system currently in place opposes the fundamentals of international law relating to guarantees of a fair trial, especially because the justice system does not include a fair and independent mechanism to appeal against sentences to death.

The Gaza Strip uses Penal Code Number 74 that was established in 1936. The Jordanian Penal Code Number 16 established in 1960 is currently in force in the West Bank.

In 2008 Palestinian courts have issued 12 death sentences. In 2009 17 death sentences have been issued. The last execution the Palestinian Authority carried out was in 2006, three months after Mahmud Abbas took control. Since then the P.A. has not practiced the death penalty.

5. TABLES AND GRAPHS

Graph 1: Death Penalty in the World in 2009

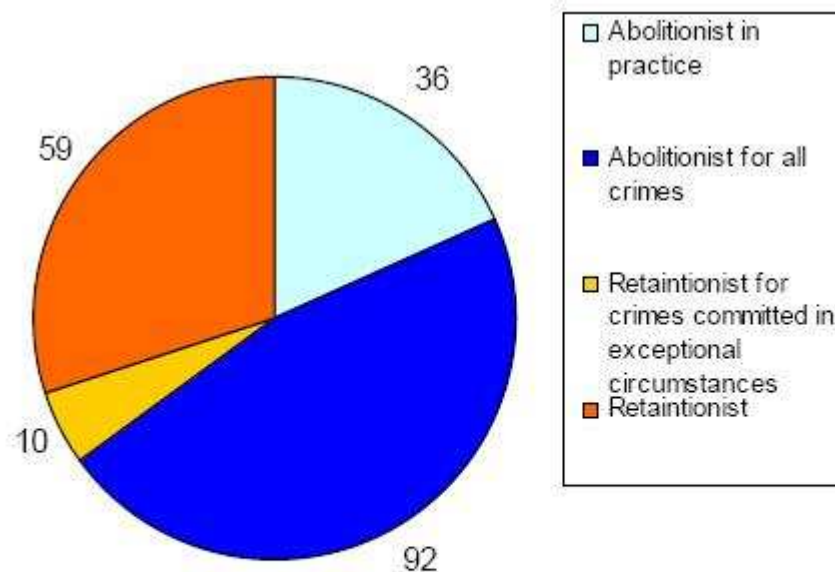


Table 1: International Legal Instruments by Country

COUNTRY	ICCPR	2 nd protocol ICCPR	UN GA Resolution 62/149 (2007)	UN GA Resolution 63/168 (2008)
Algeria	ratified	-	In favour	In favour
Bahrain	ratified	-	Against	Abstain
Comoros	-	-	Against	Against
Djibouti	ratified	ratified	Abstain	Abstain
Egypt	ratified	-	Against	Against
Iraq	ratified	-	Against	Against
Jordan	ratified	-	Against	Abstain
Kuwait	ratified	-	Against	Against
Lebanon	ratified	-	Abstain	Abstain
Libya	ratified	-	Against	Against
Mauritania	ratified	-	Against	Abstain
Morocco	ratified	-	Abstain	Abstain
Oman	-	-	Against	Abstain
Qatar	-	-	Against	Against
Saudi Arabia	-	-	Against	Against
Somalia	ratified	-	Against	In favour
Sudan	ratified	-	Against	Against
Syria	ratified	-	Against	Against
Tunisia	ratified	-	Absent	Absent
UAE	-	-	Abstain	Abstain
Yemen	ratified	-	Against	Against

Table 2: Death Penalty by Arab Country in 2009

COUNTRY	DEATH PENALTY	EXECUTIONS IN 2009
Algeria	Abolitionist in practice	0
Bahrain	Retentionist	0
Comoros	Retentionist	0
Djibouti	Abolitionist for all crimes	0
Egypt	Retentionist	2
Iraq	Retentionist	120
Jordan	Retentionist	0
Kuwait	Retentionist	0
Lebanon	Retentionist	0
Libya	Retentionist	8
Mauritania	Abolitionist in practice	0
Morocco	Abolitionist in practice	0
Oman	Retentionist	0
Qatar	Retentionist	0
Saudi Arabia	Retentionist	42
Somalia	Retentionist	1
Sudan	Retentionist	5
Syria	Retentionist	2
Tunisia	Abolitionist in practice	0
UAE	Retentionist	0
Yemen	Retentionist	11
Total		At Least 189

Graph 2: Arab Country votes in the UNGA Moratorium Resolution

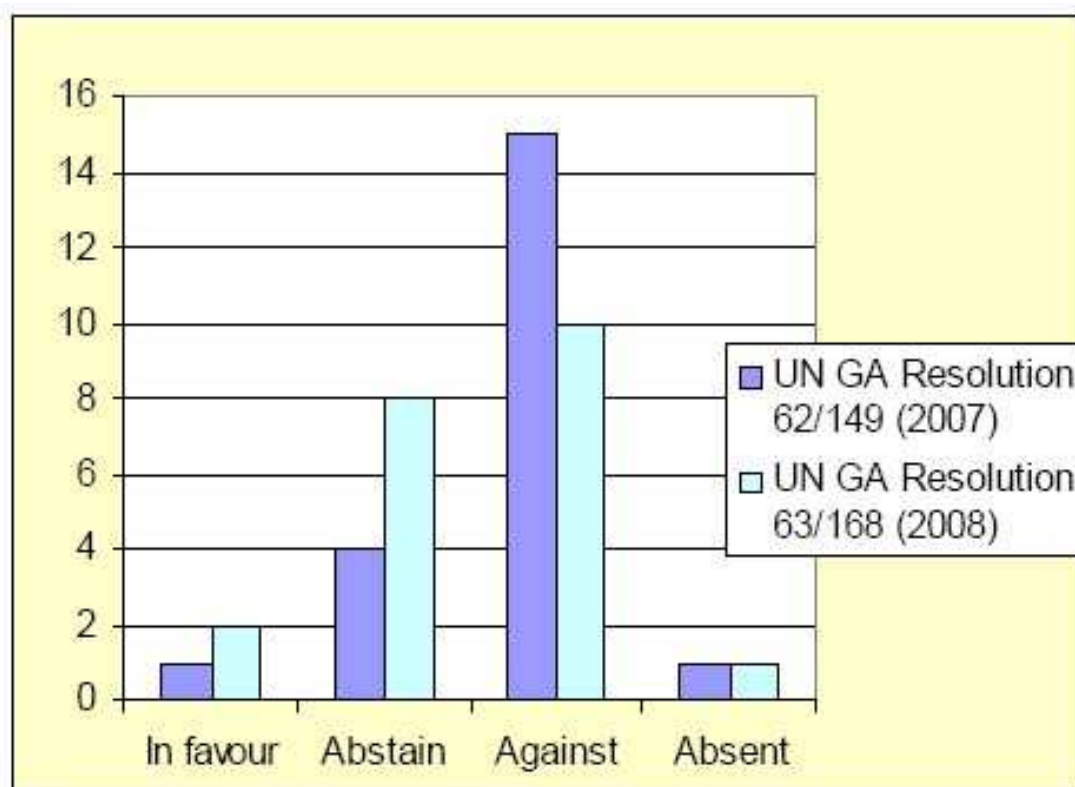


Table 3: Change in UNGA Moratorium Resolution Votes 2007 – 2008

COUNTRY	UN GA Resolution 62/149 (2007)	UN GA Resolution 63/168 (2008)
Algeria	In favour	In favour
Bahrain	Against	Abstain
Jordan	Against	Abstain
Mauritania	Against	Abstain
Oman	Against	Abstain
Somalia	Against	In favour

Table 4: Estimated executions in 2006, 2007, 2008, and 2009 per Arab State

Country	2006	2007	2008	2009
Algeria	0	0	0	0
Bahrain	3	0	1	0
Comoros	0	0	0	0
Djibouti	0	0	0	0
Egypt	4	0	2	2
Iraq	65	29	34	120
Jordan	4	0	0	0
Kuwait	10	1	0	0
Lebanon	0	0	0	0
Libya	0	0	8	8
Mauritania	0	0	0	0
Morocco	0	0	0	0
Oman	0	0	0	0
Qatar	0	0	0	0
Saudi Arabia	39	147	102	42
Somalia	7	3	1	1
Sudan	65	2	1	5
Syria	2	5	1	2
Tunisia	0	0	0	0
UAE	0	0	1	0
Yemen	30	8	13	11
Total	229	195	164	At Least 189

Table 5: ACHRS Activities on the Death Penalty in 2009

April	ACHRS was elected to the secretariat of the Arab Coalition against the Death Penalty.
June	At a World Coalition Against the Death Penalty (WCADP) meeting in Rome The Arab Coalition against the Death Penalty, along with twenty other organizations, were elected to the steering committee for the WCADP.
June	ACHRS and the Jordanian Coalition against the Death Penalty held a seminar to promote dialogue on the death penalty. The seminar focused on new amendment laws in Jordan and what that meant for the abolition movement.
December	A representative of ACHRS and the Arab Coalition participated in a WCADP steering committee meeting in Paris on 8-9, December 2009. The steering committee met in order to finalize preparations for the 4 th Congress against the Death Penalty scheduled for February 24–26, 2010

6. CONCLUSIONS

There were both positive and negative developments in the Arab World in terms of capital punishment. Bahrain and the United Arab Emirates reportedly did not execute anybody in 2009, and improvement from the previous year. Although, inconclusive, Yemen reportedly executed less people in 2009 than it did in 2008. ACHRS is hesitant to assert that executions in Saudi Arabia have dropped because of the lack of reliable information released by the country. Saudi Arabia has been one of the world's worst abusers of capital punishment for decades now. Saudi laws fail to protect minors from receiving the death penalty. The human rights situation in Saudi Arabia is becoming increasingly worrisome and the government is urged to critically review its conduct and consider reform.

The year 2009 marked numerous negative developments across the Arab World as well. Syria, Sudan, and Iraq reportedly executed more people in 2009 than the previous year. Iraq's dramatic increase to 120 executions and hundreds of death sentences in 2009 merits legitimate concern about the human rights situation in Iraq. The country is strongly urged to critically review its judicial system and encouraged to halt the imminent executions of people on death row.

ACHRS must strongly emphasize that the numbers listed in the above graphs cannot be 100 percent accurate. Arab Governments conceal, minimize, and obfuscate the number of executions administered and the amount of death sentences issued. The numbers used in this study represent the absolute least amount of possible executions. ACHRS acknowledges that the numbers are probably much higher. Accordingly ACHRS encourages all governments in the Arab World to release reliable information regarding the practice of the death penalty. Transparency is a crucial step toward critical self-examination and ultimately reform.

As of 2009, Djibouti remains the only country in the Arab League that has outlawed the use of capital punishment. Morocco, Algeria, Tunisia, and Mauritania are all abolitionist by practice. ACHRS commends these countries and further urges them to take the next step forward and legally abolish the death penalty for all crimes. Comoros, Jordan, Kuwait, Lebanon, Oman, and Qatar have also taken encouraging steps to limit the use of the death penalty. All of these countries have not executed anybody for at least a few years. ACHRS encourages the listed countries to continue down this path and take further steps to ratify the Second Optional Protocol and abolish the death penalty for all crimes.

Comoros, Oman, Qatar, Saudi Arabia, and the United Arab Emirates are encouraged to ratify the ICCPR, to assure that no one is arbitrarily denied the right to life. These countries are the only nations in the Arab League that have not ratified the ICCPR.

Movements, organizations, and individual abolition activists have been gaining momentum in recent years. These entities have recently emerged in the Arab World and they are becoming increasingly popular. ACHRS hopes that civil society can significantly contribute to the promotion of a culture of human rights and to move

towards abolition of the death penalty in Arab countries and throughout the rest of the world.

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