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SOCIAL DEVELOPMENT QUESTIONS

Capital punishment

Report of the Secretary-General

SUMMARY

The Economic and Social Council, in resolution 1745 (LIV), requested the Secretary-General to present to the Council periodic up-dated and analytical reports on capital punishment at five-year intervals starting in 1975. The Council has before it the third five-year report, based on information concerning the use of and trends in capital punishment and on the legal changes, initiatives and results of research compiled by the Secretary-General since 1979 (chap. II).

In accordance with General Assembly resolution 2857 (XXVI) and Economic and Social Council resolution 1980 (LVIII), the present report includes in chapter III information on practices and statutory rules which govern the right of a person sentenced to death to petition for pardon, commutation or reprieve. In addition, the report refers to newly adopted safeguards for those facing the death penalty (Council resolution 1984/50).

In chapter IV the report presents proposals for an implementation mechanism for the above-mentioned safeguards.

* E/1985/30 and Corr.1.

Chapter V presents governmental research and studies on the subject, and includes a summary of the UNSDRI report on the main trends in research in capital punishment prepared in pursuance of the standing mandate of the Council contained in resolution 1086 B (XXXIX).

Of 48 responding States, 4 replies were received from North Africa and the Middle East, 5 from Africa south of Sahara, 7 from Asia and the Pacific, 2 from Eastern Europe, 13 from Latin America and the Caribbean, and 17 replies from Western Europe.

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INTRODUCTION

1. In its resolution 1745 (LIV), paragraph 5 of 16 May 1973, the Economic and Social Council invited the Secretary-General to present to the Council at five-year intervals periodic updated and analytical reports on the situation, trends and safeguards concerning capital punishment. 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), and the second report, based on information received from Member States for the period 1974-1979 (E/1980/9 and Corr.1 and 2 and Add.1 and Corr.1 and 2 and Add.2 and 3). By Council resolution 1980/142, the second report was also transmitted to the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Caracas from 25 August to 5 September 1980.

2. The present document is the third quinquennial report on capital punishment called for by Council resolution 1745 (LIV) and has been prepared mainly on the basis of information received from Member States for the period 1979-1983.

3. As approved by the Economic and Social Council in resolution 1984/45, the present report will also be one of the basic documents for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, scheduled to be held in Milan, Italy, from 26 August to 6 September 1985, for discussion under the agenda item on formulation and application of United Nations standards and norms in criminal justice.

4. In the preparation of the present report, the Secretary-General took into account General Assembly resolution 32/61, in which it reaffirmed its resolution 2857 (XXVI) and Economic and Social Council resolutions 1574 (L), 1945 (LIV) and 1930 (LVIII). All these resolutions emphasized that 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 its abolishment.

5. The Economic and Social Council, recalling the alarm expressed by the General Assembly at its thirty-eighth session (resolution 38/96) at the occurrence on a large scale of summary or arbitrary executions and guided by the desire to continue to contribute to the strengthening of the international instruments relating to the prevention of arbitrary and summary executions, approved in resolution 1984/50 the safeguards guaranteeing protection of the rights of those facing the death penalty, as recommended by the Committee on Crime Prevention and Control, on the understanding that they shall not be invoked to delay or to prevent the abolition of capital punishment.

6. The Secretary-General wishes also to refer to Economic and Social Council resolution 1979/22, in which the Council, inter alia, expressed its concern about the slow progress being made in restricting the number of offences for which capital punishment might be imposed. In that resolution, the Council decided that it was essential for the preparation of future reports on capital punishment to have the fullest possible information on the use of the death penalty in all

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countries, and requested the Secretary-General to make every effort to elicit full responses from all Governments in future inquiries on the subject.

7. The Secretary-General, by notes verbales of 28 May, 30 August and 12 November 1984, invited Member States to submit information for the preparation of the third quinquennial report on capital punishment. By a letter of 6 December 1984, the Secretary-General also enlisted the assistance of the national correspondents in the field of crime prevention and control in following-up with the relevant government offices on the submission of their replies. At the time of preparation of the present report, 47 Member States had responded with information on capital punishment. It should be noted that the number of responses has decreased by about 36 per cent since the previous quinquennial report, which covered 74 countries.

8. The present report on capital punishment reviews the current situation and includes information on the number of sentences imposed and executions carried out, what are regarded as capital offences, and reasons for exemption from sentencing or execution. In response to those concerns expressed by the General Assembly and the Economic and Social Council about safeguards guaranteeing protection of rights of those facing the death penalty, the present report includes information on practices and statutory rules governing the right of an offender sentenced to capital punishment to petition for pardon, commutation or reprieve. Consideration is also given to the establishment of safeguards guaranteeing protection of the rights of those facing the death penalty and the development of an implementation mechanism for such safeguards.

9. On the question of safeguards guaranteeing protection of the rights of those facing the death penalty, the Economic and Social Council, in resolution 1984/50, invited the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the safeguards with a view to establishing an implementation mechanism. Section IV below presents the recommendation of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.121/IPM/3) concerning establishment of an implementation mechanism for adoption by the Seventh Congress.

I. BACKGROUND

10. Of the 49 Member States which replied to the questionnaire for the first quinquennial capital punishment survey (1969-1973), 23 were "abolitionist" and 26 were "retentionist". Of the 74 States replying to the second quinquennial survey (1974-1978), which requested more information than the first survey, 47 were "retentionist", 26 "abolitionist" (including 16 by law for all crimes and 10 for ordinary crimes only 1/), and one "divided" on the issue. It should be emphasized that these figures are indicative only of a response pattern, but not of the status of capital punishment throughout the entire world.

11. Taking all the responses of the second survey into account, the total number of reported sentences and executions by region in the 1974-1979 period was as

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follows: North Africa and the Middle East (total number of responses - 10), 151 capital sentences reported by 7 States and 29 executions reported by 5 States; Africa south of the Sahara (total number of responses - 11), 1,289 sentences reported by 8 States and 224 executions by 6 States; Eastern Europe (total number of responses - 5), 157 capital sentences reported by 5 States and 60 executions reported by 4 States; Asia and the Pacific (total number of responses - 12), 2,025 capital sentences reported by 9 States and 581 executions by 10 States; Latin America and the Caribbean (total number of responses - 15) - 36 sentences reported by 3 States and 8 executions reported by 2 States; Western Europe and North America (total number of responses - 21) - 103 sentences reported by 6 States and 10 executions reported by 2 States.

12. On the basis of the data received, it was found that, while several countries moved towards the abolition of capital punishment by either not sentencing offenders to death or by not executing offenders, there were also several countries that reported an increase in the number of executions during the period under consideration. It was difficult, however, to draw general conclusions about the question of and trends in capital punishment, since the number of respondents was somewhat low and there were different respondents to the two surveys. Moreover, several countries did not disclose the number of executions (A/CONF.87/9, para. 8).

II. THE CURRENT SITUATION

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

13. For the third survey, covering the period 1979-1983, a similar situation arises on the question of analysis of trends. Not only was the number of respondents low, but the diverse terminologies, classification systems and reporting practices used by the respondents were not easily comparable, particularly with regard to the types of capital offences and the nature of legal remedies.

14. Replies to the inquiry for the third quinquennial survey were received from 48 Governments, 4 of which came from North Africa and the Middle East, 2/ 5 from Africa south of the Sahara, 3/ 7 from Asia and the Pacific, 4/ 2 from Eastern Europe, 5/ 13 from Latin America and the Caribbean, 6/ and 17 from Western Europe. 7/

15. Of the 48 responding States, 24 were either totally abolitionist by law or had abolished capital punishment for ordinary crimes 1/ (Austria, Bolivia, Colombia, Denmark, Ecuador, El Salvador, Finland, France, Germany, Federal Republic of, Italy, Kiribati, Luxembourg, Malta, Monaco, Netherlands, Nicaragua, Norway, Portugal, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela). Twenty-four States retained capital punishment (Argentina, Belize, Belgium, Botswana, Cuba, Cyprus, Czechoslovakia, Greece, Jamaica, Japan, Madagascar, Mozambique, New Zealand, Niger, Philippines, Qatar, Senegal, Sri Lanka, Suriname, Thailand, Tonga, Tunisia, United Arab Emirates, Yugoslavia), although in a number of countries executions had not taken place for some time.

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16. Within the first group of countries, 19 had abolished capital punishment by law for all crimes (Austria, Bolivia, Colombia, Denmark, Ecuador, Finland, France, Germany, Federal Republic of, Kiribati, Luxembourg, Monaco, Netherlands, Nicaragua, Norway, Portugal, Sweden, Uruguay, Vanuatu, Venezuela), and five for ordinary crimes only (El Salvador, Italy, Malta, Switzerland and the United Kingdom).

17. Within the second group of retentionist States, executions had not taken place during the reporting period in 12 countries (Argentina, Belize, Belgium, Cyprus, Greece, Madagascar, New Zealand, Niger, Philippines, Qatar, Sri Lanka and Suriname), and in some cases, for a time considerably exceeding the reporting period (Belgium, Madagascar, New Zealand and Suriname). 8/ Five of these 12 countries stated that they also had not imposed death sentences on offenders during the reporting period and two of them reported that they had not done so for a considerably longer period (Argentina, Suriname).

B. Legal changes and initiatives reported since 1979

18. Replies to the inquiry show that during the reporting period a variety of legal changes leading to the reduction of capital punishment or its partial or total abolition took place. With regard to partial or total abolition, those changes occurred in Western Europe and in Central America. In Western Europe, France, the Netherlands and Norway totally abolished capital punishment. Norway, however, only reaffirmed in 1981 its decision of 1902 to abolish the death penalty, while the Netherlands in 1983 extended the abolition of capital punishment to military crimes.

19. France first renounced its retentionist position four years ago. In the reply of France, it was stated that:

"Rejection of capital punishment - constantly called for by major philosophical trends and recommended by international authorities (United Nations, Council of Europe, Assemblies of the European Communities) - was one of the objectives of the candidates for the presidential and legislative elections in favour of whom the French electorate decided in 1981".

20. In Central America, Nicaragua reported that its decision to abolish capital punishment was based upon adherence to article 3 of the Universal Declaration of Human Rights, article 6, paragraph 1, of the International Covenant on Civil and Political Rights and article 4 of the American Convention on Human Rights. El Salvador reported that, under article 27 of the new political Constitution, capital punishment may be imposed only in those cases provided for in military law during a state of international war. The body of military law includes the code of military justice, which is to be revised so as to specify the cases in which capital punishment will be imposed.

21. The United Kingdom reported that, in 1979, there were legislative initiatives to restore capital punishment. The issue has been decided by free votes (not subject to bipartisan considerations) of the House of Commons, but all motions were defeated by wide margins.

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22. Other abolitionist countries which reported on this question (17 in all) advised that there were no basic legislative initiatives to reinstate capital punishment, although two of them (Kiribati and Uruguay) mentioned some initiatives which did not have legislative and/or popular support.

23. A number of other countries which were retentionist reported some legislative and/or policy changes and initiatives regarding restriction of use of capital punishment and/or reduction of the number of capital offences.

24. Restriction of the use of capital punishment was noted as an existing policy by Belize, Cuba, Cyprus and Qatar, whereas a policy of reducing the number of capital offences was reported to be pursued by Botswana, Cyprus, New Zealand and Yugoslavia. With regard to legislative initiatives concerning application of the death penalty, the Government of Japan reported that such initiatives were undertaken by the Legislative Council, an advisory organ of the Minister of Justice, which made recommendations to the Ministers on the overall revision of the Penal Code on 29 May 1974. Its recommendation emphasized that capital punishment should be not abolished. The Council also stated, however, that it was desirable to restrict application as far as possible, that the number of crimes punishable by the death penalty should be decreased and that there should be a special provision for particular care in the application of capital punishment. As yet, the overall revision of the Penal Code based on the Council's recommendations has not occurred.

25. On the same subject, and in an annex to its basic report, Czechoslovakia noted that:

"A pending amendment of the substantive criminal law is not envisaged to modify the extraordinary nature of the death penalty or the conditions for improving it as provided by the valid legal regulations. However, it is proposed to formulate separately and in a different way conditions for imposing the extraordinary penalty of deprivation of liberty for more than 15 up to 25 years, which, under valid legal status, may be imposed instead of the extraordinary death penalty when the same conditions are met".

26. In the reply of Yugoslavia it was reported that initiatives for the abolition of capital punishment had been made "only by individuals or small groups. However, the overwhelming majority of public opinion does not support those initiatives".

27. In a number of other replies, a trend towards an increase in the number of capital offences was reported (Mozambique, Sri Lanka and Thailand). Mozambique also reported resumption of executions.

28. The above review may lead to the observation that, apart from the reported three major legislative changes leading to the abolition of capital punishment (that is, for ordinary crimes in El Salvador, and for all crimes in France and Nicaragua), there were a number of minor changes in the extent to which the death penalty was applied in Member States. However, neither the major nor minor shifts in the legal or factual status of capital punishment allow for any definitive conclusions as to overall developments in this area. It would be difficult to say

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that in the reporting period much had changed at the general international level. By its very nature such a survey could not account for unreported developments in newly retentionist States. For example, it is known that one Latin American country introduced capital punishment for terrorism in 1983. Consequently, the overall picture concerning all legal changes and initiatives on the death penalty could not be depicted clearly at the present time. Obviously, this analysis could not take account of the number of arbitrary and summary executions and of disappeared persons.

III. REVIEW OF THE STATUS OF CAPITAL PUNISHMENT

A. Capital punishment in fact

29. During the period under review, at least 1,076 capital sentences and 137 executions, involving about 13 per cent of those sentenced, were reported altogether by 19 countries. As regards the number of death sentences imposed, 239 were reported for 1979, 195 for 1980, 238 for 1981, 267 for 1982 and 137 for 1983. The average for all years was 214. With regard to executions, 44 of a total of 137 were reported for 1979, 23 for 1980, 18 for 1981, 28 for 1982 and 24 for 1983 (see annex table 2). Those figures should not be taken to imply that persons executed during the period under review were necessarily sentenced during the same period nor that some of the capital offenders (as in the case of the United Arab Emirates and Madagascar, which did not provide year-by-year figures, but lump figures) were sentenced or executed in exactly the years under which the data were here subsumed. As a rule, governments did not provide military crime statistics and, therefore, executions carried out under military law were not reflected.

30. A regional breakdown indicates that one North African country reported 28 capital sentences and 25 executions, and one Middle Eastern country reported three sentences and three executions. In Africa south of the Sahara, five countries reported a total of 77 capital sentences and 70 executions. In the Asia and the Pacific region 5 countries reported 730 capital sentences and 8 executions. In Eastern Europe, 2 countries reported 25 capital sentences and 8 executions. In Latin America and the Caribbean region, 4 countries reported 189 capital sentences and 23 executions. In Western Europe, 2 countries reported altogether 24 capital sentences and no executions. Within the given total figures, only seven women were reported sentenced under a capital punishment statute and one executed. All capital offenders were 18 years of age or above. Furthermore, most of the capital sentences reported were imposed for offences against persons. The second ranking category of offences for which capital sentences were imposed were offences against the State.

31. According to the replies received, the two predominant methods of executions were hanging and shooting. Hanging was reported by 10 countries and shooting by 5 countries, 2 of which indicated that shooting is a method of execution applied to military personnel only. One country reported electrocution as a method of execution and another two, of which one was formerly retentionist, but now abolitionist, reported decapitation as the method of capital punishment. Still another country reported that the mode of execution could be determined by the

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sentencing judge and that mostly it was shooting. Executions were not public in any of the countries, although one country added that a small group of persons, possibly including Justices of the Peace and other adult spectators not exceeding 10 in all, might be admitted by the sheriff or deputy sheriff, while another country stated that those who wished to attend the execution carried out in prison were allowed to do so. Other countries did not provide specific information about such policies.

32. It should be re-emphasized here that many of the data provided in paragraphs 29 and 30 tell more about the extent of statistical artifacts than about the real number of capital sentences and executions. For example, a relatively high number of capital sentences is reported in the Asia and Pacific region in comparison with regions other than Western Europe (about 68 per cent of all sentences reported). This is largely owing to a high number of responses from the Asia and Pacific region and, at the same time, a high number of responses with respect to the number of capital sentences and executions. Naturally, the data available so far cannot account for developments in at least 17 other retentionist countries of Latin America and the Caribbean, in the 16 countries of North Africa and the Middle East, in the 40 countries of Africa south of Sahara and the 9 countries of Eastern Europe. Nor can they account for countries which, although responding to the questionnaire, did not provide the data now under consideration (4 altogether).

33. In connection with data cited earlier on the results of the second quinquennial survey on capital punishment, it should be re-emphasized that, first, no comparison is possible with these data owing to the differences in lists of responding countries to both surveys. About 40 countries which responded to the second survey did not respond to the third survey, and at least 5 countries which responded to the third survey did not respond to the second survey. In both senses, reported data are far from complete, hence they do not illustrate, in a continuous fashion, possible developments in countries which did not respond to one of the two surveys, nor the total world situation during the reporting period. However, they could be supplemented by statistical data provided by one of the non-governmental organizations in consultative status with the Economic and Social Council under the terms of paragraph 7 of General Assembly resolution 39/118. According to those data, during the 1979-1983 period, at least 7,246 capital sentences were handed down world-wide 9/ and, at the same time, there were at least 7,940 executions. 10/ This means that, if all countries had responded to the survey, the respective data would have increased seven-fold for capital sentences and about 60-fold for capital executions.

34. Such a situation is very detrimental to the monitoring of developments in the field of capital punishment, rendering an overall assessment virtually impossible. Moreover, the data of those retentionist States which did respond could easily be misinterpreted. In view of this, the Council might wish to consider ways and means for increasing the response rate to the survey by encouraging States to report relevant data.

B. Capital offences in law

35. Data available from the survey, however, made possible an analysis of specific developments within the field of capital punishment regarding the number and type of offences for which it can be used. This point is crucial in the context of article 6 of the International Covenant on Civil and Political Rights, which stipulates 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.

36. The survey shows that there existed a wide variety of offences liable to capital punishment which could be categorized under the following main headings: (a) ordinary criminal law offences, that is, against (i) persons, (ii) public or private property, (iii) the State, and (iv) other offences; (b) military law offences, laws of war and other special laws, for example, against (i) the State, (ii) official military duties, and (iii) other offences (see tables 3.1 and 3.2 for listing by individual countries).

37. The above listing of crimes for which the death penalty may be invoked shows that ordinary criminal laws foresee it for, broadly speaking, crimes against the State and the person. However, different degrees of specificity from responding countries on this matter make it difficult to draw implications from the catalogues of reported capital offences. However, it is still possible to observe that, except for personal crimes with lethal consequences, ranging from various forms of homicide to aggravated rape and different offences involving endangering mass communication, plus the safety and general health of the population, there also exist several instances of capital offences without lethal consequences. These are mostly sex offences or are property related (for example, rape, adultery and armed robbery). Furthermore, some drug-related offences are also liable to capital punishment where, in principle and by definition, such lethal consequences do not arise.

38. A number of countries reported an array of property offences subject to capital punishment. One country reported that this was also the case with apostasy, that is, renunciation of the principles of religion, and all of them indicated that a variety of offences against the State were punishable by death. This latter category of capital offence would suggest that capital punishment, rather than an ordinary criminal sanction could be used to protect the current form of Government (A/CONF.87/9, para. 21). It should be recalled, therefore, that the continuing existence of such capital offences led the Sub-Commission on Prevention of Discrimination and Protection of Minorities to recommend to the Commission on Human Rights that it should request the Economic and Social Council to call upon Governments to abolish death sentences for such offences (resolution 1 (XXXIV)). 11/

39. From the overview contained in paragraphs 36 and 37 above, it may be reasonably concluded that, during the reporting period, hardly any general progress was achieved in reducing the number and types of capital offences to those which could be regarded as "most serious" and those having intentionally lethal consequences.

40. These points are especially relevant within the context of the above cited provision of article 6 of the International Covenant on Civil and Political Rights, which the Committee on Human Rights interpreted as "restrictively to mean that the death penalty should be a quite exceptional measure". 12/ Further, restriction was recommended by the Economic and Social Council in the annex to resolution 1984/50, in which the Council emphasized that "in countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences."

41. Since the latter phrase concerning "extremely grave consequences" may be open to interpretation, any such interpretation should be firmly related to the spirit of the Covenant's provision emphasizing "the inherent right to life of every human being". This was understood by the General Assembly as recommending progressive restriction of the use of the death penalty (resolution 2857 (XXVI)), which was itself recognized by the Assembly in resolutions 2393 (XXIII) and 39/118 as a form "of cruel, inhuman and degrading ... punishment".

42. Still another subject is that of capital offences under military law, laws of war and other special laws. The number of such offences seems to exceed that of capital offences under ordinary criminal law. That such laws are resorted to infrequently in times of peace makes such legislation merely dormant but not unimportant. The dormant existence of such laws points to an unfortunate tacit acceptance of the practice of recourse to capital punishment in the face of possible threats to the security of the State, or to its very existence. It may be recalled in this context that in resolution 1983/43 of the Commission on Human Rights it was emphasized that "for people in the world today there is no more important question than that of preserving peace and ensuring the cardinal right of every human being, namely, the right to life". It should be also noted that the Commission recalled "the historic responsibility of the Governments of all countries to remove the threat of war from the lives of people, to prevent nuclear catastrophe, to preserve civilization and to ensure that everyone enjoys his inherent right to life". 13/

C. Extraneous reasons precluding sentencing or execution

43. Extraneous reasons precluding a capital sentence or execution were originally specified within the International Covenant on Civil and Political Rights; a document only binding upon those Member States which have ratified it, but which can be regarded as an authoritative interpretation of general principles in the field of human rights and thus as a guideline for non-signatory countries. Article 6, paragraph 5, of the Covenant 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". This position was re-emphasized by the Economic and Social Council in resolution 1984/50 (annex, para. 3), which added that the death sentence shall not "be carried out ... on new mothers, or on persons who have become insane".

44. A review of available information shows that, while the age of the capital offender is a factor preventing his sentencing or execution, in some countries this age is lower than 18 years. On the other hand, two countries extended this safeguard to persons under 20 or 21 years of age. Additionally, one country reported that persons over 70 years of age cannot be sentenced to death.

45. In a majority of countries, pregnancy was also a reason for exemption from sentencing or execution. One country (Czechoslovakia) reported in this connection that the death penalty "may not be executed also on a woman who, in spite of being legally sentenced, became pregnant after the judgement. In this case the death penalty may not be executed even after the woman ceases to be pregnant".

46. With regard to mental illness, the majority of countries reported that this precludes the possible sentencing or execution of a capital offender. Two of them added that physical illness had the same consequences and one reported that the lack of complete consensus on the part of judges precluded imposition of a capital sentence.

47. There were considerable differences between responding countries as regards the nature of exemption from capital punishment. While some countries followed the provisions of the Covenant, reporting that safeguards were lifted when the reason for exemption no longer existed, others reported that exemptions were permanent and, therefore, went beyond the guidelines established by the Covenant.

48. As the number of possible responses was smaller than that for the second quinquennial survey, the impression could arise that reasons exempting an offender from the death penalty have become more restricted. For example, no formal mention could be made in this survey of a possible exemption covering a woman with a child under three years of age, as reported by one country for the second survey. Similarly, not much could be said about exemption from sentencing and execution for reasons other than mental illness, that is, physical sickness. See table 4 for reasons for exemption from sentencing or execution in capital cases 1979-1983.

D. Legal safeguards guaranteeing protection of offenders
who could be sentenced to death

49. The importance of such legal safeguards is clear considering that about 75 per cent of all countries are retentionist. With the exception of a small number of countries within this group which became abolitionist by custom and de facto, all the rest have a practical and continuous need to apply the safeguards in proceedings in capital cases.

50. Safeguards in capital cases are an historical development as they have been viewed as fair in humane criminal justice policy. 14/ The increasing recognition of the necessity for safeguards led to the establishment of internationally recognized safeguards under the International Covenant on Civil and Political Rights and other standards established by the Economic and Social Council. Some retentionist countries reported that, in addition to those safeguards, their own legislation contained provisions exceeding those of the Covenant, thus contributing

to the strengthening of safeguards at the global level. However, this process could not be fully appreciated in the replies to the questionnaire, which gave no details either in substantive comments or attached texts of laws, but only affirmative answers qualified by a phrase such as "in the form of article (no specified) of the law of ...".

51. The existence of and resort to such procedural and other rights-explains to some extent, but not exclusively, why there is such a large discrepancy between the number of those sentenced to death and those executed (7:1). As it was noted in the report from the second survey, a continuing disparity between the number of capital sentences, on the one hand, and the number of commuted executions on the other, may indicate that in some countries there could be a de facto trend towards abolition of capital punishment. It should be added, however, that a sizeable number of other countries did not report the executions carried out. Thus the proportion between sentences and executions may vary according to individual reporting practices.

52. Presented below is a survey of legal safeguards which could guarantee the protection of those facing the death penalty in reporting countries, and which, in principle, apply to all criminal cases, that is, regardless of whether capital or not.

1. The right to be fully informed of charges

53. This right (art. 14, para. 3 (a) of the Covenant) is granted in nearly all responding States, but the timing of its application may vary with regard to different stages of criminal proceedings. Belize and Mozambique replied that the defendant must be fully informed of the nature of charges by the court within 48 hours after the prosecutor has filed them in court. Two other countries (Cyprus and Jamaica) reported that the charges must be communicated to the perpetrator in a language understood by him, and this should be done "as soon as reasonably practicable" (Jamaica).

2. Right to have adequate time and facilities
for the preparation of defence

54. With regard to this right (art. 14, para. 3 (b) of the Covenant), all of the responding countries gave an affirmative answer and a number of them provided further details. In the Philippines, the trial date cannot be set earlier than two days after the accused has been notified or less than two hours in case of arraignment, though the court may, for good cause, shorten or extend the time. In Tonga, an appearance by a defendant may be required as early as 24 hours after a summons has been served or, when the defendant is out of the district, 14 days after such service. In Mozambique, the accused is given five days to choose his counsel and prepare his defence starting from the time the charges are received by the tribunal. In the Niger, the case may be heard at least 15 days after the accused has been examined by the presiding judge so that his counsel has time to examine the file and plan his client's defence. Several other countries reported

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that provision of adequate time and facilities for the defence is the obligation of the court, which can flexibly set them as the ends of justice require.

55. In view of the above, it may be noted that, in cases where the life of the offender is at stake, a special protection should be afforded by setting reasonably long time-limits, or longer than in any other case, for preparation of his defence and granting him that available facilities for his defence will indeed fully guarantee his right of adequate preparation. Consequently, a new safeguard could be adopted which recommends that, in capital cases, the offender's right to have adequate time and facilities for the preparation of defence should be considered in generous terms, that is, that allotting of the said time and facilities will guarantee the offender more legal protection than in non-capital cases.

3. Legal assistance

56. Responding countries almost unanimously reported the existence of this right (art. 14, para. 3 (d) of the Covenant), both at the offender's or the State's cost, whenever the former is not in a financial position to cover expenses connected with such assistance. Mozambique, however, reported that the services of the offender's choice of counsel are paid by the State. Japan reported that legal assistance must be rendered in this case by a "competent" counsel and emphasized that there was an obligation to employ a counsel in a capital case. Tonga stressed that the choice of the counsel in such a case was reserved to the State.

4. The right to refuse to testify

57. All responding countries reported this right as existing (art. 14, para. 3 (g) of the Covenant) in their national laws. Those countries added that the offender might refuse to give testimony in a procedure calling him as a witness (Cyprus, Jamaica, Philippines).

5. The right to examine the witness

58. Similarly, all the countries reported that the capital offender had the right to examine the witness against him or her (art. 14, para. 3 (e)). Laws of criminal procedure were reported to provide different legal techniques for such cross-examination.

6. Right to appeal

59. Both the Covenant (art. 14, para. 5) and Economic and Social Council resolution 1984/50 (annex, para. 6) provide that anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction and that "steps should be taken to ensure that such appeals shall become mandatory". Further, amnesty (art. 6, para. 4 of the Covenant and Council resolution 1984/50, annex, para. 7) may be granted in all cases.

60. The right to appeal or to seek review of the death sentence and, as a matter of fact, of every sentence in a court of higher jurisdiction was reported by all countries with one exception. Throughout those countries, there existed a variety of phases in a proceeding where appeal was more or less available. Jamaica, for instance, reported that there existed a right of appeal against conviction, but not of the death sentence, which was mandatory.

61. In the majority of countries, request for re-examination of the case may relate to questions of fact, law or the sentencing itself. Legislation of some countries, however, provided that such re-examination might be restricted to questions of law (Niger) or questions of law and fact (Jamaica, Madagascar, Philippines and Sri Lanka).

62. Countries also reported whether the successful exercise of those rights of appeal suspends execution of the capital offender (General Assembly resolutions 2393 (XXIII) of 26 November 1968 and 35/172 of 15 December 1980, and Council resolution 1984/50 (annex, paras. 2 and 8)). Generally, they did so, though such a result might be restricted to certain rights only. For example, appeal suspends execution of sentence in the Philippines, but application of other rights does not. In Suriname, execution of the sentence is suspended only for the eight days provided for an appeal.

63. Reporting retentionist States were divided on the question of a possible automatic appeal, as proposed by the General Assembly in resolution 35/172. A portion of them responded that an appeal depends on those who had the right to make it; other countries reported that appeal was exercised automatically. The legislation of the following countries provided for an automatic appeal: Belize, Belgium, Botswana, Cuba, Czechoslovakia, Madagascar, Philippines, Qatar, Sri Lanka, Tunisia and Thailand. Facultative appeal is provided under the laws of Cyprus, Jamaica, Japan, Mozambique, the Niger, Suriname, Switzerland, Tonga, the United Arab Emirates and Yugoslavia.

64. In the case of States whose laws provided only for the right of appeal, the authority to exercise such a right independently of the will of the capital offender, for instance, by the family or a legal counsel, is of principal importance. Of those countries, the following have such regulations: Belize, Botswana, Czechoslovakia, Jamaica, Mozambique, Philippines, Suriname, Thailand, Tunisia, the United Arab Emirates and Yugoslavia.

65. A wide group of persons eligible to exercise the right of appeal in capital cases was reported by Czechoslovakia and Yugoslavia. In Czechoslovakia, the judgement may be appealed for the defendant's benefit by the defendant's relatives in direct line of descent, that is, his brothers or sisters, adopter, adoptee, spouse and common law spouse. Such individuals may appeal against the defendant's will. The appeal may also be filed for the defendant's benefit by his legal representative and counsel; this may also be done against the defendant's will. In Yugoslavia, persons listed as having the right of appeal include the offender's spouse, straight-lineage kinsman, adopter, adoptee, brother, sister and defence counsel.

7. Right to seek pardon

66. The Covenant (art. 6, para. 4) and Economic and Social Council resolution 1984/50 (annex, para. 7) provide that anyone sentenced to death shall have the right to seek pardon or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment. Virtually all countries recognized the right of the accused to seek pardon; exceptions from this rule were reported concerning the right to reprieve, which was restricted in some cases in Belize. The authority to pardon usually rests with the head of State or Government, and sometimes with political assemblies, as in the case of Mozambique's Popular Assembly.

8. Alternative sanctions to the death sentence

67. A review of replies to the survey showed that countries were divided over this issue. Only some countries had legislation providing for alternatives to capital punishment in capital cases. These alternatives ranged from life imprisonment to imprisonment of some length and additional penalties. The following countries belong to this group: Cuba, Czechoslovakia, Mozambique, Suriname, Switzerland, Tonga and the United Arab Emirates.

68. Japan reported that a mandatory death sentence was imposed for a conviction of encouragement of foreign aggression. In New Zealand, the death sentence was obligatory for treason under ordinary criminal law, but not in military law, where there were always alternative sanctions to capital punishment. In Thailand, a mandatory death sentence was imposed for certain instances of such crimes as murder, sexual crimes (rape of women or intercourse with a girl below 13 years of age), kidnapping, killing or endangering the life of the King, and some drug crimes, most of which result in the death of the victim. In all other capital cases, there was an alternative sanction. In Cyprus, mandatory capital punishment was imposed for treason delicta juris gentium and certain military crimes. In Jamaica, capital punishment was mandatory under ordinary criminal law, but not under military law.

69. The following countries reported that their national legislation provided only for mandatory capital sentences: Belize, Botswana, Madagascar, Niger, Philippines and Sri Lanka.

9. Mandatory waiting period

70. This safeguard was suggested by the General Assembly in resolution 2393 (XXIII), which invited Governments to consider whether a time-limit or time-limits could be established in national legislation before the expiry of which no death sentence should be carried out.

71. In reply to the question on the existence of a mandatory waiting period, some countries reported that, although in their legislation there was no fixed time-limit, it was nevertheless guaranteed that no execution was carried out before

completion of the appeal procedure or request for pardon. The following countries reported the existence of a mandatory waiting period: Belgium (length unspecified), Cuba (10 days following reception of records by the Council of State, after the elapse of which, without any reaction on its part, the sentence of death is commuted), Cyprus (8 to 9 weeks), Philippines (15 days), Thailand (60 days).

72. All countries reported that there were no obstacles to the exercise of the safeguards reviewed above. Furthermore, all but one country indicated also that there were no specific differentiations between legal safeguards in the context of ordinary criminal procedure and, whenever applicable, military criminal procedure or any other special procedure.

IV. TOWARDS DEVELOPMENT OF IMPLEMENTATION MECHANISMS FOR SAFEGUARDS GUARANTEEING PROTECTION OF THE RIGHTS OF THOSE FACING THE DEATH PENALTY

73. In resolution 1984/50, the Economic and Social Council approved safeguards guaranteeing protection of the rights of those facing the death penalty. By the same resolution, the Council invited the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the safeguards adopted by the Council with a view to establishing an implementation mechanism, within the framework of the item of its provisional agenda entitled "Formulation and application of United Nations standards and norms in criminal justice". In preparation for this, the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders regarding the above-mentioned provisional item, held in Varenna, Italy, from 24 to 28 September 1984, welcomed the Council's approval of the safeguards and recommended for adoption by the Congress a resolution on the establishment of the implementation mechanism as follows:

"The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

"Bearing in mind the provisions set out in article 2, paragraph 1, 14 and 15, of the Covenant on Civil and Political Rights 15/ and, in particular, those on the death penalty contained in article 6,

"Recalling that the General Assembly, in its resolution 32/61 of 8 December 1977, inter alia, reaffirmed that 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 could be imposed with a view to the desirability of abolishing that punishment,

"Welcoming Economic and Social Council resolution 1984/50 of 24 May 1984 containing safeguards guaranteeing protection of the rights of those facing the death penalty,

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"1. Endorses the safeguards approved by the Economic and Social Council in its resolution 1984/50 on the understanding that they shall not be invoked to delay or to prevent the abolition of the death penalty or the reduction of the number of capital offences;

"2. Invites all States retaining the death penalty and whose present standards fall short of the safeguards to adopt the safeguards and to take the necessary steps to implement them by:

"(a) Incorporating or making provision for the safeguards in national legislation and regulations;

"(b) Ensuring that judges, lawyers, police officers, prison officials and other persons, including military personnel, who may be concerned with the administration of criminal justice are familiar with the safeguards, and any corresponding provisions in national legislation and regulations, by including them in courses of instruction, by disseminating and publicizing them and by other appropriate means;

"(c) Drawing the attention of persons charged with a capital offence, and their representatives, to the safeguards and to any corresponding provisions in national legislation and regulations;

"(d) Widely disseminating and publicizing the safeguards, and any corresponding provisions in national legislation and regulations, through the mass media and by other appropriate means;

"3. Requests the General Assembly to invite the criminal justice and human rights bodies of the United Nations to promote the safeguards and to take them fully into account in their work;

"4. Requests intergovernmental organizations, including regional organizations, specialized agencies and other bodies within the United Nations system having responsibilities in the field of criminal justice and human rights as well as the relevant non-governmental organizations to promote the safeguards and to take them fully into account in their work;

"5. Requests the Secretary-General of the United Nations:

"(a) To exercise his good offices in order to ensure as far as possible the effective implementation of the safeguards in all States;

"(b) To include in the quinquennial reports on capital punishment made to the Economic and Social Council, in accordance with Council resolution 1745 (LIV), a statement on the implementation of the safeguards;

"(c) To bring the text of the safeguards and of the mechanism for their implementation to the attention of all States, the General Assembly, the appropriate intergovernmental organizations, including regional organizations and specialized agencies, and other appropriate bodies within the United Nations system, as well as non-governmental organizations;

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"(d) To disseminate and publicize the safeguards and the mechanism for their implementation widely, and to publish the texts in as many languages as possible."

74. In this connection, attention is also drawn to General Assembly resolution 39/118, in which the Assembly, inter alia, called upon Member States to spare no effort in providing for adequate mechanisms, procedures and resources so as to ensure the implementation of Economic and Social Council resolution 1984/50, and requested the Secretary-General to employ his best endeavours in cases where safeguards guaranteeing the protection of the rights of those facing the death penalty are violated.

V. FACTORS ASSOCIATED WITH THE ABOLITION OF CAPITAL PUNISHMENT

75. The Economic and Social Council, in resolution 1984/50, approved the safeguards guaranteeing protection of the rights of those facing the death penalty on the understanding that they should not be invoked to delay or to prevent the abolition of capital punishment. The present section of the report deals with the factors associated with the abolition of capital punishment, as indicated by the countries responding to the questionnaire.

76. In the responses, three factors seemed to have played a major role in the abolition of capital punishment: empirical evidence of effects on the crime rate, government concern with the protection of the right to life and public opinion.

A. Empirical evidence of effects on the crime rate

77. Most of the replies indicated that decisions to abolish capital punishment were substantiated by empirical evidence which showed that this punishment had no perceptible effect on the overall crime rate or on rates of specific types of crime. Such observations were made by Austria, Cyprus (with regard to the abolition of death penalty for murder), Denmark, France, New Zealand, Portugal, Switzerland and Uruguay.

78. In the reply of Austria, it was emphasized that the abolition of capital punishment was advocated by the majority of criminal lawyers considering that "... [it is] not required for criminal policy reasons (such as general prevention)". New Zealand noted that "available evidence tended to show that capital punishment was unlikely to deter those intent on committing murder, particularly where the crime was committed without planning or premeditation". Uruguay reported that "the supposed value [of capital punishment] has been denied on the grounds that it does not stop those committing crimes due to sexual jealousy, anarchists and political offenders".

79. Portugal reported in detail on the gradual process of abolition of capital punishment, which originated in 1852 when only deliberate murder, treason and crimen lèse majestatis were liable to punishment by death. However, before that year, Portugal had not used capital punishment for political offences since 1834 or

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for civil offences since 1847, and had not executed any women since 1772. It was further reported that these developments were attributed to the early criminological work of Cesare Beccaria; 16/ who questioned the usefulness and necessity of capital punishment, which lead to the gradual abandonment of the idea of retribution in Portugal. The first draft law of 1867, which sought the formal abolition of capital punishment for ordinary crimes and was enacted the same year by the Parliament, was based upon the consideration that this de facto abolitionist trend did not lead to any increase in crime. In 1911, capital punishment was also abolished for military offences, but it was reinstated in 1916 for certain military offences in the theatre of war operations and was renounced again in 1976 under article 24, paragraphs 1 and 2 of the present Constitution.

80. Venezuela, which also abolished capital punishment in the last century, stated that, although its decision was based on empirical evidence, such evidence was no longer a criteria owing to the passage of time. Fundamentally, "abolition was ... due to political will, for the 1857 Constitution (art. 97) enacted the inviolability of life in regard to political offences, and the 1864 Constitution (art. 14) extended the prohibition to ordinary criminal offences, a principle upheld in all legislation from that time onwards and merely signifying evolution of the conception of the right to life as an absolute basic, admitting, therefore, of no exception and entering the corpus of constitutional rights".

B. Government's concern with protection of the right to life

81. With regard to this factor, and as quoted above, some replies emphasized that capital punishment could not be reconciled with observance of the fundamental right to life and that it was a duty of government to ascertain the full protection of life by not taking it even in the name of law. Statements which stressed the above premise were made by Colombia, Denmark, France, Germany, Federal Republic of, Italy, Kiribati, the Netherlands, Nicaragua, Norway, Switzerland, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela.

82. The Government of the Federal Republic of Germany reported further in this connection that its decision of 1949 to abolish the death penalty stemmed from "the experiences with the national socialistic use of violence and the misuses of capital punishment". A similar statement to the one above was made by Italy, which abolished this punishment for ordinary crimes in 1944, and by Austria (1950).

C. Public opinion

83. Four reports contained explicit references to the role of public opinion in directing political will to abolish capital punishment (Denmark, Netherlands, Sweden, Uruguay). For example, Denmark noted that, when the question of the death penalty was considered in that country for the first time (1930), its abolition for ordinary crimes concurred "with the ethical opinion of the great majority of the public". At the time of its abolition for military crimes (1978), "the majority in the Danish Parliament was of the opinion that the abolition of capital punishment was in harmony with general ethical and humanistic principles". Uruguay reported

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also that in 1907, when the law was passed to abolish capital punishment, one of its grounds was that by this action, "a life is always saved because capital punishment means two deaths".

VI. RESEARCH AND STUDIES

84. An analysis of 48 replies from responding countries indicates that research initiatives and studies of capital punishment were very limited during the period under review. A majority of countries reported that no such research was conducted by national agencies, academic institutions or individual scholars. The same countries reported that there was no governmental action undertaken to promote research in this field. A fraction of respondents did not answer both questions at all and only six (Jamaica, Japan, New Zealand, Tonga, United Kingdom of Great Britain and Northern Ireland and Yugoslavia) provided further observations.

A. Governmental research and action

85. Jamaica reported that, in 1979, the Minister of Justice appointed a committee to examine the question of capital punishment and to make recommendations thereon. That committee has since reported on the subject, but the conclusions of their work were not provided. Apart from the above-mentioned study, no further governmental action in Jamaica has been undertaken to promote research in this field.

86. Japan reported that the Research and Training Institute of the Ministry of Justice conducts research on "the boundary between the death penalty and life imprisonment as given in recent court decisions".

87. New Zealand reported that the report of the Penal Policy Review Committee, presented to the Minister of Justice in 1981, and the report of the Select Committee on Violent Offending, presented to the House of Representatives in 1979, commented briefly on the question of capital punishment, and both rejected any need to increase the range of capital offences under ordinary criminal law. No other governmental action is being undertaken to promote research in this area.

88. Tonga reported that a paper on capital punishment was presented by the Minister of Police to the Privy Council and that the Government, through its Ministry of Police, promoted research on this question, which involved "criminal records".

89. The United Kingdom cited one review of the literature on deterrence funded by the Home Office. The Government is not promoting research on the question of capital punishment at present.

90. Yugoslavia reported that the imposition and carrying out of capital punishment is studied in the context of statistical research on criminality. Since 1979, there has been no other official study, with the exception of individual scientific analyses. So far there have been no new governmental initiatives to promote research in this respect.

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B. Other criminological studies

91. At the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas, from 25 August to 5 September 1980, great interest was expressed in in-depth studies and research on the question of capital punishment. 17/ To meet this request, the Secretary-General enlisted the assistance of the United Nations Social Defence Research Institute (UNSDRI) in Rome, which prepared a special research report on the death penalty 18/ and submitted it for inclusion in the present report, in pursuance of the Council's standing mandate contained in resolution 1086 (XXXIX) B. The report by the Institute is summarized below.

92. An overview of major criminological literature for the period from 1979 to 1983 on the question of capital punishment at the disposal of UNSDRI (over 250 publications) 19/ shows that the majority of available works concentrated on five issues: (a) legal rules relating to capital sentencing, (b) capital sentencing practices (c) public attitudes, (d) measurement of deterrent effect, (e) death-row inmates.

1. Legal rules relating to capital sentencing

93. Analysis of the literature showed that a trend developed in the capital punishment question which dealt with procedural deficiencies, as well as with procedural safeguards, involved in the process of imposing a death sentence. This new trend could mark a shift from the "pro" versus "con" question, to an instrumental position within a given legal status where procedural guarantees are applied to decrease arbitrariness in the capital sentencing process.

94. The most analysed safeguards involved re-examination of the capital case, "death-qualified" juries, rules of evidence, including the psychiatric testimony and problems related to minors sentenced to death. Results of this research suggested the existence of disparate and inconsistent treatment owing to either different interpretations of legal norms or to the political or social circumstances. It has been observed, therefore, that procedural devices did not exclude extra-legal factors in death sentencing nor did they reduce to satisfactory levels, the capacity of the criminal justice system to produce consistent results.

2. Practices in capital sentencing

95. With reference to some of the above factors, more than half of the studies reviewed dealt with the issues of "discriminatory justice" and, with one exception, all of these came from one country. Some of these works suggested that capital punishment might, both in the past and today, be misused in that a disproportionate number of non-whites were sentenced to death. Some authors point out that the administration of the death penalty was affected less by the race of the defendant than by the race of the victim. Still others suggested that a strong discriminatory factor was not race, but the socio-economic status of the defendant.

96. While these results cannot be generalized, cross-national research should be developed to determine whether similar factors play a role in capital sentencing process elsewhere.

3. Attitudes towards capital punishment

97. Research on public support or non-support of the death penalty suggested two major dimensions of the issue: the relationship of public opinion to (a) legal norms, and (b) to legislative or political initiatives and attitudes.

98. Recent studies continued to point out that public opinion on the death penalty fluctuated and that it might be ill-informed because of strong sentiments.

99. In contrast to earlier research, and to account more correctly for the meaning of public sentiments, there was a tendency to determine which particular socio-psychological factors shaped public attitudes. Preliminary results suggested that four interrelated factors - utilitarianism, ethics, humanism and instrumentalism - explained how the public substantiated those attitudes.

100. In this context, research questioned the earlier findings that support for capital punishment was fundamentally based on belief in its deterrent effects, as commonly indicated in opinion polls. Beliefs in the efficacy of deterrence were the surface manifestations of more deeply held sentiments and feelings. Both the abolitionists and retentionist members of the public although professing strong beliefs about the death penalty, showed that they knew rather little about the administration of capital punishment. Expert knowledge, when communicated to those individuals, could not greatly affect their originally held views.

101. In conclusion it may be noted that opinion polls, the results of which too often were used to support prevailing beliefs on the issue, simply reflected the public's strongly held though uncritical views. Consequently, research on attitudes towards the death penalty should have more insight into political, social and psychological dimensions of public attitudes.

4. The measurement of deterrent effect

102. More than half of the studies examined were concerned with the measurement of deterrent effects and nearly three quarters of them reported no significant relationship between capital punishment and rates of criminal homicide. Some of them rather strongly inferred that use of the death penalty and the rate of homicide were independent phenomena, and that socio-economic and demographic factors were better predictors of homicide rates than the resort to capital punishment. Further, some cross-national comparative studies reported that, among abolitionist countries, abolition of capital punishment was frequently followed by a decrease in homicide rates.

103. Reviews of these studies suggested that further methodological refinements were needed to determine the deterrent effects of the death penalty. Consequently

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and as repeatedly expressed in United Nations documentation, the inconclusiveness of deterrence research should be emphasized.

5. Death row inmates

104. Studies of death row inmates, conducted in one country only, although many in number, suggested inter alia that present procedures for assessing the sanity of those awaiting death were inadequate and that consequently, more extensive screening procedures were required. Issues such as the right of the public and press to have access to executions and the death row inmates' right to die were also examined in those studies.

105. In conclusion (paras. 92-104), the Institute's review suggested that, as most of the studies concerned the western developed countries only, no global conclusions could be made. The dearth of research results from developing countries demonstrates the need to invite their attention to the promotion of research in this field.

VII. CONCLUSIONS

106. As the present report is based on the formal replies received from only 48 countries, the reported findings cannot be regarded as reflecting the world-wide status of capital punishment. Official information was not available from a majority of the retentionist States, especially those which seem to resort to the death penalty most frequently.

107. Limited as it is, the available information suggests that there were few significant changes throughout the period from 1979 to 1983, in comparison with the period from 1974 to 1978. However, the decisions of three countries to abolish capital punishment (totally in two States and for ordinary crimes in one), and an apparent decrease in the number of capital sentences and executions, make it possible to conclude that the movement towards abolition has progressed somewhat during the period under review. Furthermore, significant initiatives have been taken internationally to protect the rights of those facing the death penalty by the adoption of Economic and Social Council resolution 1984/50 and General Assembly resolution 39/118.

Notes

1/ Abolitionist for ordinary crimes means that there is no provision for capital punishment under ordinary criminal law, but that it may be imposed under military law or exceptional circumstances, such as war.

2/ Cyprus, Qatar, Tunisia, United Arab Emirates.

3/ Botswana, Madagascar, Mozambique, Niger, Senegal.

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Notes (continued)

- 4/ Japan, Kiribati, Philippines, Sri Lanka, Thailand, Tonga, Vanuatu.
- 5/ Czechoslovakia, Yugoslavia.
- 6/ Argentina, Belize, Bolivia, Colombia, Cuba, Ecuador, El Salvador, Jamaica, Nicaragua, Suriname, Uruguay, Venezuela.
- 7/ Austria, Belgium, Denmark, Finland, France, Germany, Federal Republic of, Greece, Italy, Luxembourg, Malta, Monaco, Netherlands, Norway, Portugal, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland.
- 8/ See annex, table 1, for detailed breakdown.
- 9/ One hundred and forty-seven in 1979 (September through December only), 1,295 in 1980, 3,209 in 1981, 1,435 in 1982, 1,160 in 1983.
- 10/ One hundred and twenty-five in 1979 (September through December only), 1,229 in 1980, 3,278 in 1981, 1,609 in 1982 and 1,699 in 1983.
- 11/ See E/CN.4/1512, chap. XX, sect. A.
- 12/ See Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40 (A/37/40), annex V, para. 7.
- 13/ See Official Records of the Economic and Social Council, 1983, Supplement No. 3 (E/1983/13 and Corr.1), chap. XXVII, sect. A.
- 14/ For example, in England, prisoners on capital charges were not allowed counsel until 1836. A prisoner charged with a capital offence was not allowed to give evidence on his own behalf and to be called as a witness until 1898. The capital offender was granted the possibility of appeal only in 1907, when a court of Criminal Appeal was established; before he could only seek the Royal Pardon. Finally, the right to life was strengthened in 1969 when the United Kingdom abolished capital punishment for ordinary crimes (see E/5242, p. 12)
- 15/ General Assembly resolution 2200 A (XXI), annex.
- 16/ Del Delitti e delle Pena, 1764.
- 17/ Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, Venezuela, 25 August-6 September 1980 (United Nations publication, Sales No. E.81.IV.4), para. 109.
- 18/ See United Nations Social Defence Research Institute, "Main trends in research on capital punishment, 1979-1983", UNSDRI-344, No. 4/84.
- 19/ United Nations Social Defence Research Institute, "International bibliography on capital punishment (1978-1984)", UNSDRI/277/344/1984/5 (Rome, December 1984).

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ANNEX

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Legend

- A Abolitionist by law (which means that the country's laws do not provide for the death penalty).
- AO Abolitionist by law or ordinary crimes only (which means that the death penalty is imposed for exceptional crimes, that is, those subject to military law and/or committed in exceptional circumstances for example in wartime).
- AC Abolitionist by custom for at least 40 years (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 during that period has been executed).
- ADF Abolitionist de facto at least for the past 10 years (which means that nobody has been reported executed for at least the last 10 years). Many new nations whose laws provide for capital punishment have not, in fact, executed anyone sentenced to death, but, since most of those States have been in existence for less than 25 years, it is difficult to ascertain whether this is the result of a deliberate policy.
- R Retentionist (a retentionist country is one that imposes capital punishment for ordinary crimes, such as murder, rape, theft etc.).
- D Federal nations are divided on the issue, as some States are abolitionist and others retentionist, for example, Australia and the United States of America.

A blank space indicates that no answer was provided; some countries did not provide information relevant to all tables. The term minors is used if the exact age limit was not indicated.

Table 1. Status of capital punishment in countries, territories and areas of the world

(by region)

A. North Africa and the Middle East

Algeria	R	Libyan Arab Jamahiriya	R
Bahrain	R	Morocco	R
Cyprus <u>c/</u>	ADF 1962 <u>b/</u>	Oman	R
Democratic Yemen	R	Qatar <u>c/</u>	R
Egypt	R	Saudi Arabia	R
Iran (Islamic Republic of)	R	Syrian Arab Republic	R
Iraq	R	Tunisia <u>c/</u>	R
Jordan	R	Turkey	R
Kuwait	R	United Arab Emirates <u>c/</u>	R
Lebanon	R	Yemen	R

B. Africa south of the Sahara

Angola	R	Madagascar <u>c/</u>	ADF 1960 <u>b/</u>
Benin	R	Malawi	R
Botswana <u>c/</u>	R	Mali	R
Burkina Faso	R	Mauritania	R
Burundi	R	Mauritius	R
Cameroon	R	Mozambique <u>c/</u>	R
Cape Verde	A	Niger <u>c/</u>	R
Central African Republic	R	Nigeria	R
Chad	R	Rwanda	R
Comoros	R	Sao Tome and Principe	R
Congo	R	Senegal <u>c/</u>	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	R	Uganda	R
Ivory Coast	R	United Republic of Tanzania	R
Kenya	R	Zaire	R
Lesotho	R	Zambia	R
Liberia	R	Zimbabwe	R

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C. Asia and the Pacific

Afghanistan	R	Maldives	R
Bangladesh	R	Mongolia	R
Bhutan	R	Nepal	AO 1959 <u>a/</u>
Brunei Darussalam	R	Pakistan	R
Burma	R	Papua New Guinea	AO
China	R	Philippines <u>c/</u>	R 1976 <u>b/</u>
Democratic Kampuchea	R	Republic of Korea	R <u>d/</u>
Democratic People's Republic of Korea	R <u>d/</u>	Samoa	R
Fiji	R	Singapore	R
India	R	Solomon Islands	A
Indonesia	R	Sri Lanka <u>c/</u>	R 1977 <u>b/</u>
Japan <u>c/</u>	R	Thailand <u>c/</u>	R
Kiribati <u>c/</u>	R	Tonga <u>c/</u>	R
Lao People's Democratic Republic	A 1965 <u>a/</u>	Tuvalu	A
Malaysia	R	Vanuatu <u>c/</u>	A 1981 <u>a/</u>
		Viet Nam	R

D. Eastern Europe

Albania	R	Poland	R
Bulgaria	R	Romania	R
Byelorussian Soviet Socialist Republic	R	Ukrainian Soviet Socialist Republic	R
Czechoslovakia <u>c/</u>	R	Union of Soviet Socialist Republics	R
German Democratic Republic	R	Yugoslavia <u>c/</u>	R
Hungary	R		

E. Latin America and the Caribbean

Antigua and Barbuda	R	Grenada	R
Argentina <u>c/</u>	ADF 1956 <u>b/</u>	Guatemala	R
Bahamas	R	Guyana	ADF 1970 <u>b/</u>
Barbados	R	Haiti	R
Belize <u>c/</u>	R	Honduras	A 1929 <u>b/</u>
Bermuda	R	Jamaica <u>c/</u>	R
Bolivia <u>c/</u>	A	Mexico	AO
Brazil	AO 1978 <u>a/</u>	Nicaragua <u>c/</u>	A 1979 <u>a/</u>
Chile	R	Panama	A 1903 <u>a/</u>
Colombia <u>c/</u>	A 1910 <u>a/</u>	Paraguay	R
Comoros	R	Peru	R
Costa Rica	A 1882 <u>a/</u>	Saint Lucia	R
Cuba <u>c/</u>	R	Saint Vincent and the Grenadines	R
Dominica	R	Suriname <u>c/</u>	AC 1927 <u>b/</u>
Dominican Republic	A 1966 <u>a/</u>	Trinidad and Tobago	R
Ecuador <u>c/</u>	A 1906 <u>a/</u> <u>b/</u>	Uruguay <u>c/</u>	A 1907 <u>a/</u>
El Salvador <u>c/</u>	A 1983 <u>a/</u>	Venezuela <u>c/</u>	A 1869 <u>a/</u>

/...

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

Australia	D	Liechtenstein <u>d/</u>	R
Austria <u>c/</u>	A 1950 <u>a/</u> <u>b/</u>	Luxembourg <u>c/</u>	A 1978 <u>a/</u>
Belgium <u>c/</u>	AC 1918 <u>b/</u> <u>e/</u>	Malta <u>c/</u>	AO 1979 <u>a/</u>
Canada	AO 1976 <u>a/</u>	Monaco <u>c/</u> <u>d/</u>	A 1962 <u>a/</u>
Denmark <u>c/</u>	A 1978 <u>a/</u>	Netherlands <u>c/</u>	A 1983 <u>a/</u> <u>f/</u>
Finland <u>c/</u>	A 1972 <u>a/</u>	New Zealand <u>c/</u>	ADF 1961 <u>b/</u>
France <u>c/</u>	A 1981 <u>a/</u>	Norway <u>c/</u>	A 1979 <u>a/</u> <u>g/</u>
Germany, Federal		Portugal <u>c/</u>	A 1977 <u>a/</u> <u>h/</u>
Republic of <u>c/</u>	A 1949 <u>a/</u>	San Marino <u>d/</u>	AO
Greece <u>c/</u>	ADF 1972 <u>b/</u>	Spain	AO 1978 <u>a/</u>
Holy See <u>d/</u>	A	Sweden <u>c/</u>	A 1979 <u>a/</u>
Iceland	A 1928 <u>b/</u>	Switzerland <u>c/</u> <u>d/</u>	AO 1942 <u>a/</u>
Ireland	ADF 1954 <u>b/</u>	United Kingdom <u>c/</u>	AO 1969
Israel	AO 1954 <u>a/</u>	United States of	
Italy <u>c/</u>	AO 1944 <u>a/</u>	America	D

a/ Year of abolition.

b/ Year of last known execution if before the period 1979 to 1983.

c/ An official response to the present survey was received. For non-responding countries, the information supplied is based on research carried out by the Secretariat.

d/ Non-member State.

e/ 1918 - last execution by guillotine; 1950 - last execution by shooting.

f/ From 1870 until 1983, abolitionist for ordinary crimes only.

g/ Between 1902 and 1978, abolitionist for ordinary crimes only and, between 1902 and 1946 also for military crimes.

h/ Date of amendment to the Code of Military Justice; since 1846, abolitionist for ordinary crimes only.

Table 2. Number of sentences imposed and executions carried out and type of capital offence involved, 1979-1983

Responding States (by region)	Number of persons sentenced				Number of persons executed				Type of capital offences			
	Total number involved	Sex		Age	Total number involved	Sex		Age	Number of sentences	Number of executions		
		Male	Female			Male	Female					
NORTH AFRICA AND THE MIDDLE EAST a/												
Tunisia	28	27	1	0	28	26	25	1	0	26	13 P/19 S	19 P/13 S
United Arab Emirates	3	3	0	0	3	3	3	0	0	3	3 P	3 P
AFRICA SOUTH OF THE SAHARA												
Botswana	7	7	0	0	7	6	6	0	0	6	7 P	6 P
Madagascar (ADF)	3				3	0	0	0	0	0	3 P/Prop	0
Mozambique	63	63	0	0	63	63	63	0	0	63	61 S/2 Prop	
Niger	2	2	0	0	2	0	0	0	0	0	2 b/	0
Senegal	2	2	0	0	2	0	0	0	0	0		
ASIA AND THE PACIFIC												
Japan	16	16	0	0	16	5	5	0	0	5	16 P	5 P
Philippines	185	184	1	0	185	0	0	0	0	0	102 P/38 Prop	45/Ot
Sri Lanka	201	201	0	0	201	0	0	0	0	0	201 b/	0
Thailand	325 b/											
Tonga	3	3	0	0	3	3	3	3	0	0	3	
EASTERN EUROPE												
Czechoslovakia	11	11	0	0	11	8	8	0	0	8	11 P	8 P
Yugoslavia	14	14	0	0	14	0	0	0	0	0	12 P/1S/1 Ot	

/...

Table 2 (continued)

Responding States (by region)	Number of persons sentenced				Number of persons executed				Type of capital offences	
	Total number involved	Sex		Age	Total number involved	Sex		Age	Number of sentences	Number of executions
		Male	Female			Male	Female			
LATIN AMERICA AND THE CARIBBEAN c/										
Cuba										
Belize	28	28	0	0	28	1	0	0	1	28 P
Jamaica	161	156	5	0	161	22	0	0	22	161 P
WESTERN EUROPE d/										
Belgium (AC)	7									7 P
France e/	11	11	0	0	11	0	0	0	0	0
Greece	6	6	0	0	0	0	0	0	0	0

Note: P Offences against a person.

S Offences against the State.

Prop Offences against property.

Ot Other offences.

a/ Excluding Cyprus (abolitionist de facto); no capital sentences reported passed or carried out.

b/ No other data.

c/ Excluding Argentina (abolitionist de facto), El Salvador (abolitionist for ordinary crime only) and Suriname (abolitionist by custom): no capital sentences reported passed or carried out.

d/ Excluding New Zealand (abolitionist de facto), Switzerland and the United Kingdom (abolitionist for ordinary crimes): no capital sentences reported passed or carried out.

e/ 1979-1980 period only; since 1981, abolitionist totally.

Table 3.1 Capital offences, in responding countries a/

(by region)

A. North Africa and the Middle East

Tunisia

Premeditated homicide, arson, treason endangering the security of the State, including treason and espionage, attempts on the life of the head of State; demoralization by the enemy with the purpose of hindering the national defence, rebellion, or disorder, looting, destruction by explosion of arsenals or other State property.

Capitulation in open battle having failed to comply with duty and honour.

Qatar

Intentional homicide, corruption, robbery resulting in death, purposefully causing death of or serious injury to the ruler, his deputy or his heir, taking up arms against the State, joining of the enemy forces at war, approaching a foreign State or correspondence with it or with any person who serves its interests with a view to launching hostile actions against the State or assist the above in its military operations or cause damage, deliverance of any secrets concerning military affairs or instigating soldiers to join a hostile State.

United Arab Emirates

Intentional homicide for purposes of retaliation, adultery, rape, highway robbery, certain offences against public or private property, sedition, or opposition to head of State, attempts to depose him or illegal failure to fulfil mandatory obligations, waging war against the head of State, attempts to overturn the Government, declaring war and instigating raids, joining and supporting the enemy, apostasy, that is, renegation of Islamic law and renunciation of religious belief in it.

B. Africa south of the Sahara

Botswana

Homicide, treason, attempt on the life of the head of State, various military offences, such as desertion with conspiracy in the presence of the enemy and leadership in conspiracy for desertion to a foreign country, all in the time of war, instigation to revolt in time of war or in a territory in a state of siege or on board a ship or military aircraft in the event of a fire or collision, any refusal to obey when it is ordered to march against the enemy,

Table 3.1 (continued)

surrender in an open country by any general officer or any commander of an armed body of soldiers, abandonment of post or of equipment by any commander of a naval, aerial or land force in time of war.

Mozambique

Attempt on the life and physical integrity of the head of State, and of the members of the central organs of the party and state, and also of foreign heads of parties and States, high treason, sabotage against the national economy, rebellion, mutiny, uprising, terrorism, acts equal to terrorism, spying, agitation in certain forms with defined objectives relating to the security of the State, crimes against humanitarian rules, military sabotage, armed rebellion.

Niger

Castration followed by death, murder preceded, accompanied or followed by another crime, assassination, parricide and poisoning, corruption of minors below 18 years of age followed by death, arbitrary arrest and sequestration with torture or acts of brutality, deprivation of liberty against more than one person either gratuitously or for reward.

Aggravated theft, manifest violence, aggravated theft of large livestock with manifest violence. Theft of small livestock with certain aggravating circumstances and with manifest violence.

Espionage, crimes tending to disrupt the State by massacre or devastation.

Senegal

Murder, parricide, poisoning, acts of barbarism, hostage-taking, abduction of minor followed by the latter's death, aggravated arson. Certain unspecified crimes and offences against the security of the State and certain unspecified military crimes.

C. Asia and the Pacific

Japan

Intentional homicide; robbery, overturning of a train, endangering traffic, poisoning public water supply, seizure of aircraft or other related acts, ~~involving aircraft crash, duelling~~ all when causing personal death, arson of inhabited structure, destruction by detonation, damage to inhabited structure etc. by flooding, use of explosives; inducement of foreign aggression, being a principal conspirator, assistance to the enemy.

Table 3.1 (continued)

Philippines

Parricide, infanticide, premeditated murder and its certain other forms, robbery with homicide, rape, kidnapping and serious illegal detention.

Highway robbery or brigandage, treason, arson resulting in death, attempt on or conspiracy against the life of the Chief Executive, any member of his cabinet or their families, violation of the revised anti-subversion law, unlawful disclosure of information affecting national defence; qualified piracy and qualified mutiny, piracy in state waters; correspondence with hostile country in time of war.

Sale, administration, delivery, distribution and transportation of prohibited drugs, maintenance of den, dive or resort for prohibited drug users, manufacture of prohibited drugs, acts inimical to civil aviation, use of explosives while illegally fishing resulting in death.

Various military offences, such as desertion, advising or aiding another to desert, assaulting or wilfully disobeying superior officer, mutiny or sedition; murder or rape in time of war; certain other acts in time of war, such as misbehaviour before the enemy, compelling of the commander by subordinates to surrender, improper use of countersign in time of war, corresponding with or aiding the enemy, spying in time of war.

Sri Lanka

Murder, abetment of suicide, waging war against the head of State.

Manufacture, possession, import or export, trafficking in narcotics or dangerous drugs in specified quantities.

Various military offences in relation to the enemy and under emergency law, including misconduct, not pursuing the enemy or not assisting a friend, corresponding with the enemy or assisting the enemy, abandonment of post when on active service - all of which amounts to acting traitorously or from cowardice, mutiny, sedition, desertion, treacherous disclosure of passwords, countersigns on active service.

Thailand

Premeditated murder and its certain other forms, such as preceded by torture, to conceal another offence or escape punishment; rape and/or sexual intercourse with a girl over 13 years of age - both resulting in death or general bodily harm, indecent act with a person over 13 years of age resulting in victim's death, indecent act with a child below 13 resulting in victim's death, gratifying of the sexual desire of other person by procurement, seduction or taking away a girl below 13 years of age for an indecent act; certain offences against personal liberty, such as against child below

Czech

Yugoslavia

/...

Table 3.1 (continued)

13 years of age for ransom or person above 13 years or by restraining or detaining any person and support thereof, robbery and gang-robbery resulting in victim's death or bodily harm caused by acts of cruelty, including use of firearms.

Malfaisance in office, accepting a bribe by a criminal justice official or before appointment to such a post, murder of a person who assists an official in the exercise of his functions.

Various offences against the State, including attempt and/or causing the death of/or any other act of violence against the King or Queen, and insurrection.

Arson of certain establishments or means of transport; production, import, export of certain narcotics for purpose of disposal or possession of more than 100 grammes of certain narcotic substances; deception, threat of and violence against, exercise of undue influence or conversion of other persons by whatever means to consume narcotics. High-jacking, damage of the aircraft in service, including genocide, bodily harm to other person or death.

Certain offences against State or military duties.

D. Eastern Europe

Czechoslovakia

Murder.

High treason, sedition, terrorism, desertion, sabotage, war treason, espionage.

Common menace, endangering the safety of a transport aircraft, abduction of a transport aircraft abroad.

Various military offences, including disobedience; resistance; violence against a superior; evasion of military duty; desertion, endangering the political and moral state of a military unit, failure to fulfil a combat task, cowardice before the enemy, use of prohibited weapons, war cruelty, plundering in the theatre of military operations.

Yugoslavia

Certain qualified forms of homicide.

Various offences against the State, including acknowledgement of capitulation and occupation, killing from motives hostile to the State, counter-revolutionary attack against the social system, endangering territorial integrity, endangering the independence, obstructing the struggle against the enemy; various military crimes, for example, service in the

Table 3.1 (continued)

enemy's army, assisting the enemy, undermining the military and defence capacity, violence from motives hostile to the State, armed rebellion, terrorism, demolishing important installations of the national economy, sabotage, espionage - if these offences have resulted in the death of a person or if the offence has endangered human life or has been followed by excessive violence or destruction, or has endangered the security, economic or military forces of the country or in other extremely difficult cases, or if certain of the above acts have been committed in times of war or immediate war danger.

Genocide, war crimes against the civilian population, the wounded and the sick and prisoners of war, unlawful killing or wounding of the enemy, employing unauthorized means of combat, resisting a superior, attacking a military person doing his duty, failing or refusing to carry out orders, refusing to accept or use weapons, resisting a superior.

E. Latin America and the Caribbean

Belize

Homicide, certain offences against the defence ordinance, certain offences against power of commanding officer.

Cuba

Murder, rape, pederasty with violence, aggravated violence, or intimidation against persons, aggravated theft with force against property.

Various acts against the independence or territorial integrity of the State, promotion of armed aggression against the State, including espionage, rebellion, sedition, sabotage and terrorism and violation of truce or armistice; offences against international law, genocide, piracy, serving as a mercenary, apartheid.

Disorder in penal establishments or rehabilitation centres, devastation (aggravated form).

Various military offences, including violence against the commanding officer or a superior, resistance to or coercion of the commanding officer or a superior, aggravated violence against a subordinate or subaltern, resistance to or coercion of a sentry or other military personnel.

Resistance to or coercion of the commanding officer or a superior, mutiny, dereliction of duties with grave consequences, desertion, abandoning a sinking naval ship or one in danger of sinking; infractions of rules for sentry and frontier guard duty, looting, desertion, refusal to fight, voluntary surrender as a prisoner of war, violence against civilians in a zone of military action, offences committed while a prisoner of war.

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Table 3.1 (continued)

Jamaica

Murder, treason, aiding the enemy, communication with the enemy with a view to assisting the cause of the enemy, mutiny with violence, failure to suppress mutiny with a view to assisting the enemy.

Military treason, espionage, surrendering of the post to the enemy or other object under command by a soldier in time of war, making a sign of surrender during a fight with enemy without explicit order, trying to deceive the armed and certain other forces in times of war.

Certain offences, such as desertion and actual insubordination in times of war; not following orders to advance towards the enemy or to engage in the fighting, violence against the person perpetrated in groups.

a/ A number of retentionist countries did not provide information relevant to this table. See also table 3.2 for list of partially abolitionist countries.

Table 3.2 Capital offences in responding countries
(countries abolitionist for ordinary crimes
only, abolitionist by custom and de facto) a/

Argentina (ADF)

Homicide, including that of a member of the executive, legislative or judicial powers or of a member of the armed force or the security police, or when the offender pretends to have a status, position or profession that alters his appearance or personality in order to deceive the victim; or poisoning or adulteration of drinking water, foodstuffs or medicines.

Arson, unlawful association for purposes of subversion and certain other offences against national security, peace and dignity, public administration, such as usurpation of authority, titles and honours, especially for purposes of subversion.

Piracy and certain offences against the safety and means of transport.

Belgium (AC)

Offences against the person, including premeditated murder, parricide, poisoning.

Offences against property, including voluntary arson and destruction by explosives; and taking of hostages, if with grave injury or death.

Attempts (attentats) on the life of the King, members of the royal family or heir to the throne; other offences such as attempts against the external security of the State, that is, plotting or intelligence with a foreign power, bearing of arms against the State, transmission of communications of information; various military offences.

Cyprus (ADF)

Instigating invasion, certain offences against the State. Piracy jure gentium; military offences, such as treason, capitulation in an open place, damage to means of communications, espionage, aid to spies, desertion, revolt, disobeying orders, leading operations against the terms of an armistice, leading a revolt by prisoners of war etc.

Greece (ADF)

Homicide, robbery with death of the victim, explosion if the act results in the death of one or more persons. Embezzlement of State funds, directing of sedition, offences against the international peace of the State, if the result of the act is war; military service in the enemy against one's own country; support of the war force of the enemy; offences against the integrity of the State.

Table 3.2 (continued)

Various military offences including treason, delivery of a position to the enemy and capitulation in open place, both by a military commander, draft evasion, desertion, self-inflicted injury, disobedience to an order for departure of the military himself of his unit, misbehaviour before the enemy, disobedience.

Madagascar (ADF)

Assassination, parricide or poisoning, murder, including preparation, facilitation or perpetration of other offences or to ensure the escape or impunity of the perpetrators of or accomplices to the said offence.

Armed theft, arson causing death or certain kinds of injury or disability, depositing of an explosive device.

Fraudulent appropriations or seeking to appropriate one or more head of cattle if offence was preceded, accompanied or followed by murder.

Causing devastation, massacre and pillage, illicit use of armed force or of public force, setting fire to or destroying by explosion of a mine, buildings, stores, arsenals, vessels or other property belonging to the State, pillage of State by an organized band and attempts thereof; treason, espionage, attempt to incite civil war by arming or inducing the citizens to take up arms.

New Zealand (ADF)

Treason, aiding the enemy, and communication with the enemy, both with the intent to assist the enemy, spying in groups or establishments abroad, mutiny.

Suriname (AC)

Aggravated homicide, murder.

Attempt with intention to subject the territory of the State partly or wholly to foreign domination, establishing a secret understanding with a foreign power with the intention to persuade it to commit hostilities toward or wage war against the State, purposely assist the enemy in times of war or affect the State adversely against the enemy.

Switzerland (AO)

Espionage and military treason in wartime, sniping, bearing arms against the confederation, rendering services to the enemy.

Refuse to obey orders and mutiny, cowardice, surrender, default from guard duty, before all the enemy, desertion to the enemy.

Table 3.2 (continued)

United Kingdom (AO)

High treason (in war time), piracy with violence.

a/ Some partially abolitionist countries did not provide information relevant to this table.

... 1979-1982 ...

Table 4.1 Reasons for exemption from sentencing or execution in capital cases, 1979-1983

Responding States (by region)	Age limit	Alternative sanction	Pregnancy		Mental illness		Other circumstances		Exemption	
			Whether exempt	Alternative sanction	Whether exempt	Alternative sanction	Type	Alternative sanction	Temporary	Permanent
NORTH AFRICA AND THE MIDDLE EAST										
Qatar	18		Yes	Life imprisonment	Yes					Yes a/
Tunisia	18		Yes	Postponement of execution until after delivery	Yes		No			Yes b/
United Arab Emirates	Minors	Confinement for a period not exceeding 10 years	Yes				Illness c/		Yes	
AFRICA SOUTH OF THE SAHARA										
Botswana	Minors	Life imprisonment or a reduced term of imprisonment	Yes	Life imprisonment or a reduced term of imprisonment	Yes	Confinement to a place of safety	No			Yes
Mozambique	Yes d/	Prison sentence d/	Yes	Prison sentence d/	Yes					
Niger			Yes	Postponement of execution until after delivery			No			Yes
Senegal	No		Yes		No		No		Yes	
ASIA AND THE PACIFIC										
Japan	18		Yes		Yes		No		Yes	

...

Table 4.1 (continued)

Responding States (by region)	Age limit	Alternative sanction	Pregnancy		Mental illness		Other circumstances		Exemption	
			Whether exempt	Alternative sanction	Whether exempt	Alternative sanction	Type	Alternative sanction	Temporary	Permanent
Philippines	18	Penalty one or two degrees lower	No		No			When upon appeal or revision of the case by Supreme Court, 10 members fail to reach a decision as to the propriety of the death penalty, other penalty next lower in degree shall be imposed		Yes <u>e/</u>
	Over 70	Reclusion perpetua								
Sri Lanka	16		Yes		No					Yes
Thailand	17	Imprisonment	Yes	Postponement of execution until after delivery		Postponement of execution until recovery or commutation to imprisonment if the person recovers after one year from the date of final judgement				Yes <u>a/</u>
Tonga	15	Detention	No		No		No			Yes
EASTERN EUROPE										
Czechoslovakia	18	10-15 years of deprivation of freedom	Yes	10-15 years of deprivation of freedom	No		No			Yes
Yugoslavia	18		Yes	Postponement of execution	Yes	Postponement of execution		Bodily disease <u>f/</u>	Yes <u>g/</u>	

/...

Table 4.1 (continued)

Responding States (by region)	Age limit	Alternative sanction	Pregnancy		Mental illness		Other circumstances		Exemption	
			Whether exempt	Alternative sanction	Whether exempt	Alternative sanction	Type	Alternative sanction	Temporary	Permanent
LATIN AMERICA AND THE CARIBBEAN										
Belize	18		Yes		Yes	Security measure	No			Yes
Cuba	Under 20		Yes		Yes	Pending recovery				Yes <u>h/</u>
Jamaica	18		Yes							
WESTERN EUROPE										
Greece	21		Yes	Postponement of execution until 6 months	Yes	Postponement of execution until recovery	Physical illness	Postponement of execution until recovery		
<u>a/</u>	Excluding pregnancy.									
<u>b/</u>	Excluding mental illness where exception could be permanent.									
<u>c/</u>	Unspecified.									
<u>d/</u>	Not specified in detail.									
<u>e/</u>	Only in cases of persons over 70.									
<u>f/</u>	Under republican or provincial law.									
<u>g/</u>	Permanent under federal laws.									
<u>h/</u>	Excluding mental illness.									

Table 4.2 Reasons for exemption from sentencing or execution in capital cases, 1979-1983
(partially abolitionist countries)

Responding States	Age limit	Alternative sanction	Pregnancy		Mental illness		Other circumstances		Exemption	
			Whether exempt	Alternative sanction	Whether exempt	Alternative sanction	Type	Alternative sanction	Temporary	Permanent
Belgium (AC)			Yes		Yes		Physical illness			Yes
Cyprus (ADF) 16		Sentenced to detention as specified by council of Ministers	Yes	Life imprisonment	Yes		No			
Madagascar (ADF)	Yes, but unspecified	Prison sentence	Yes		Yes		Physical state			
New Zealand (ADF) 18			Yes	Life imprisonment	Yes ^{a/}	No				Yes
Suriname (AC)	No				No		No			
Switzerland (AO)	Minor and old age		Yes		Sickness ^{b/}					Yes

^{a/} No formal provision, but accounted for in the decisions of the Executive Council in its recommendations for the Governor General.

^{b/} No further information.