



ICHR's position on the Death Penalty

No to the Death Penalty in Palestine

In its efforts to abolish the death penalty, the Independent Commission for Human Rights (ICHR) documents its position through this paper and presents the position of International law against the death penalty in both the legislative and executive levels. Further, it reflects the international trends that push towards the abolition of the death penalty from the national legislations as well as the justifications for the halting of this execution of this penalty towards abolition from the Palestinian Basic Law.

The Palestinian National Authority (PNA) acts according to Article (10) of the Basic Law which considers that “Basic human rights and liberties shall be protected and respected” and is committed to work without delay to “become a party of regional and international declarations and covenants that protect human rights” especially that these declaration and covenants have rectified the right to life for each person.

I- Death Penalty and the Right to Life

International covenants of human rights guarantee the right to life, physical integrity and protection from forced disappearance. The Universal Declaration of Human Rights states that: "Everyone has the right to life, liberty and security of person"¹. Also, the International Covenant on Civil and Political Rights affirms that: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life"². The covenant also prohibits the death sentence as punishment to be imposed on children and pregnant women as it states: “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”³

The Convention on the Rights of the Child also asserts this prohibition as it states that children below eighteen years of age should not be subjected to the death penalty, or even life imprisonment⁴, while stressing on banning the execution of a death penalty against pregnant

¹ Article (3) of the Universal Declaration of Human Rights, 1948

² Article (6) of the International Covenant on Civil and Political Rights, 1966

³ Paragraph 5 of Article (6) of the International Covenant on Civil and Political Rights, 1966

⁴ Article (37) of the Convention on the Rights of the Child, 1989

The Independent Commission for Human Rights was founded under Presidential Decree No. (59) in 1993, and Article (31) of the Palestinian Amended Basic Law of 2003

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women⁵. It's worthy of noting that signatory states of this convention are the largest in number of State parties among the United Nations.

Continuous efforts were set forth by the United Nations to ban, abolish, and issue a moratorium on the death penalty at the international, regional, and national levels, where in 1989, the General Assembly of the United Nations issued the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and many other resolutions which call upon Member States of the United Nations system to absolutely prohibit the use of the death penalty in their national legislation to include all individuals and all crimes. The Protocol stated that "No one within the jurisdiction of a State Party to the present Protocol shall be executed, and that each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction"⁶. The number of State Parties to the Protocol is (71) states⁷ in addition to (4) states that have signed it, but have not yet ratified it⁸.

Although the protocol is not binding, except for countries that have signed and ratified it, it was a step in the right direction, towards taking practical and concrete measures by the United Nations and the member states in order to abolish the death penalty and the decrease of the spreading of the phenomenon and its practical implementation.

In its resolution 65/1989 dated 24 May 1989, the Economic and Social Council, the General Assembly of the United Nations in its resolution No. 44/163 of 15 December 1989 adopted and published "Principles of Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions without trial", which imposed a duty on governments to ban all extrajudicial, arbitrary and summary executions without trial, the criminalization of these acts in their criminal laws, and making them punishable by appropriate penalties which take into account their gravity⁹.

In order to prevent extrajudicial, arbitrary and summary executions, Governments shall ensure strict control, including a clear chain of command over all officials responsible for the apprehension, arrest, detention, custody and imprisonment as well as those officials authorized by law to use force and firearms. Governments shall prohibit orders from superior officers or public authorities authorizing or inciting other persons to carry out any such extra-judicial,

⁵ Paragraph 5 of Article (6) of the International Covenant on Civil and Political Rights.

⁶ Article (1) of the Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty issued in December 1989, and entered into force on 1.7.1991 after the accession of the tenth State to this Protocol, according to the provisions of Article 8 thereof.

On the other hand, in a comment of the Committee on Human Rights at the United Nations No. 24 of 1994: The main objective of the Second Optional Protocol is to expand the scope of the substantive obligations undertaken under the Covenant as they relate to the right to life by banning and the abolition of the death penalty

⁷ States Parties: Albania, Andorra, Argentina, Australia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Cape Verde, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liberia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Mexico, Moldova, Monaco, Montenegro, Mozambique, Namibia, Nepal, Netherlands, Nicaragua, New Zealand, Norway, Panama, Paraguay, Portugal, Romania, Rwanda, San Marino, Serbia, Seychelles, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Timor - Leste, Turkey, Turkmenistan, Ukraine, United Kingdom, Uruguay, Uzbekistan, Venezuela, Brazil, Honduras, and the Philippines.

⁸ Signatory States that have not yet ratified: Guinea-Bissau, Poland, Sao Tome, Principe.

⁹ See: Principles of Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions adopted by the General Assembly of the United Nations under Resolution No. 44/163 of 15 December/ 1989.

arbitrary or summary executions. All persons shall have the right and the duty to defy such orders. Training of law enforcement officials emphasizes on the above-mentioned provisions.¹⁰

The UN Continued its efforts in calling for the abolition of the death penalty and the moratorium where, in its resolution 2005/59, the Commission on Human Rights¹¹ called upon all countries of the world to abolish the death penalty, and also demanded that countries that still maintain the death penalty on its territory and whose legislative and legal system incorporates an article on the death penalty, to:

1. Abolish the death penalty completely and, in the meantime, to establish a moratorium on executions;
2. Gradually restrict the number of crimes for which the death penalty may be imposed and, at least, not to extend its application to crimes to which it does not, at present, apply.

Also the Sub-Commission on the Promotion and Protection of Human Rights, in its resolution 1999 / 4 for the year 1999¹² on the death penalty especially for juvenile offenders (children), unequivocally condemned the imposition and execution of the death penalty on those aged under 18 at the time of the commission of the offence; it called upon States which retain the death penalty for juvenile offenders to abolish by law as soon as possible the death penalty for those aged under 18 at the time of the commission of the offence. The resolution also reaffirms the statement in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, which prohibit the imposition of the death penalty on those aged under 18.

The same committee, in its resolution 2000/65 called upon all States Parties to the International Covenant on Civil and Political Rights that have not yet done so to consider acceding to or ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

Also, it called not to impose the death penalty for any but the most serious crimes, not to impose it for crimes committed by persons below 18 years of age, to exclude pregnant women from capital punishment, to ensure that the notion of “most serious crimes” does not go beyond intentional crimes with lethal or extremely grave consequences and that the death penalty is not imposed for non-violent financial crimes or for non-violent religious practice or expression of conscience, and not to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person. In general, it called upon States that still retain the death penalty to progressively restrict the number of offences for which the death penalty may be imposed.

The General Assembly of the United Nations issued resolution 62/149 of 2007 which cites an optional moratorium on the use of the death penalty, (104) countries voted in favor of the

¹⁰ Principles (2,3) of the principles of the Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions adopted by the General Assembly of the United Nations under resolution No. 44/163 of 15 December 1989.

¹¹ In 2006, The Human Rights Council replaced this committee.

¹² United Nations document E/CN.4/2000/2, adopted by secret ballot by 14 votes to 5, with 5 abstentions, adopted at the 30th session, dated 24 August 1999.

resolution¹³, (54) states opposed it¹⁴, while (29) States held a neutral position¹⁵ when they abstained from voting on the resolution¹⁶.

On 18 December 2008, the General Assembly adopted a second resolution on capital punishment, reaffirming the contents of the above-mentioned 2007 resolution, and welcoming the report of the Secretary General of the UN on its implementation. The resolution also requests the General Assembly to consider the question of the death penalty in the sixty-fifth session to be held in 2010. The second resolution reflected a significant increase in support from the States, as (106) Member States voted in favor¹⁷, while 46 countries voted against¹⁸, and 34 abstained from voting¹⁹.

¹³ **Proponent States:** Albania, Andorra, Argentina, Australia, Austria, Azerbaijan, Benin, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chili, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Morishios Mexico, Mikronezia (Moldova, Monaco, the Montenegro, Mozambique, Namibia, Nowra, Nepal, Netherlands, Nicaragua, Norway, Palaw, Panama, Paraguay, Philippines, Poland, Portugal, Romania, the Russian Republic, Rwanda, Samoa, San Marino, São Tomé and Príncipe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, former Yugoslav Republic of Macedonia Timor - Leste, Turkey, Tuvalu, Ukraine, United Kingdom, Great Britain and Northern Ireland, Uruguay, Uzbekistan, Vanuatu, Venezuela), Republic of Bolivia.

¹⁴ **Opponent Countries:** Afghanistan, Antigua and Barbuda, Bahamas Islands, Bahrain, Bangladesh, Barbados, Belize, Botswana, State of Brunei Darussalam, Chad, China, Udzima wa Komori, Democratic People's Republic of Korea, Dominica, Egypt, Ethiopia, Granada, Guyana, India, Indonesia, the Islamic Republic of Iran, Iraq, Jamaica, Japan, Jordan, Kuwait, Libyan Arab Republic, Malaysia, Maldives, Mauritania, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent, Grenadines Islands, Saudi Arabia, Singapore, Solomon Islands, Somalia, Sudan, Suriname, Syrian Arab Republic, Thailand, Tonga, Trinidad, Tobago, Uganda, United States, Yemen, Zimbabwe.

¹⁵ **Abstaining countries:** Belarus, Bhutan, Cameroon, Central African Republic, Cuba, Congo Democratic Republic, Djibouti, Equatorial Guinea, Eritrea, Fiji, Gambia, Ghana, Guinea, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Morocco, Niger, Republic of Korea, Sierra Leone, Swaziland, Togo, United Arab Emirates, Tataria Republic, Viet Nam, Zambia

¹⁶ Resolution No 62/ 149 issued by the UNGA on 18 December 2007. For more information on the international efforts of the UN and affiliated agencies on encouraging Member States to abolish the death penalty or reduce it.

¹⁷ **Proponent Countries:** Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Morishios Mexico, Mikronezia (states,) Monaco, the Montenegro, Mozambique, Namibia, Nowra, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palaw, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Moldova, Romania, the Russian Republic, Rwanda, Samoa, San Marino, São Tomé and Príncipe, Serbia, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, former Yugoslav Republic of Macedonia Timor - Leste, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu and Venezuela.

¹⁸ Afghanistan, Antigua and Barbuda, Bahamas Islands, Bahrain, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Chad, China, Udzima wa Komori, Democratic People's Republic of Korea, Dominica, Egypt, Granada, Guyana, India, Indonesia, the Islamic Republic of Iran, Iraq, Jamaica, Japan, Kuwait, Libyan Arab Republic, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent, Grenadines Islands, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Tonga, Trinidad, Tobago, Uganda, United States, Yemen, Zimbabwe.

¹⁹ Bahrain, Belarus, Bhutan, Cameroon, Central African Republic, Cuba, Djibouti, Eritrea, Fiji, Gambia, Ghana, Guatemala, Guinea, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Oman, Papua New Guinea, Republic of Korea, Senegal, Sierra Leone, Swariram, Togo, United Arab Emirates, Tanzania Republic, Viet Nam, Zambia.

On the regional level, in 1983, the Council of Europe approved Protocol No. 6 annexed to the European Convention on the Protection of Human Rights and Fundamental Freedoms with a view to abolishing the death penalty; it stated that No-one shall be condemned to such penalty or executed, except in respect of acts committed in time of war or of imminent threat of war²⁰.

During the Council of Europe Summit in October 1997, the heads of States, including all Member States of the European Union, called for the full and universal abolition of the death penalty. In addition, new Member States in the Council of Europe committed to the abolition of the death penalty and to ratifying the Sixth Protocol to the Convention which obliges the States to permanently abolish the death penalty. It also called for the commitment of the Member States concerning the permanent abolition of the death penalty in all circumstances. In September 2007, the Committee of Ministers of the Council of Europe declared “ A European day against the death penalty” which will be celebrated every year on the tenth of October. In December 2007, the European Day against the Death Penalty was also adopted by the European Union.

Article (2) of the EU Charter on fundamental rights stated that no one shall be condemned to the death penalty, or executed, and that all Member States of the European Union are fully committed to these items and to their implementation. States in question are also committed with accordance to Copenhagen Document on exchange of information at the Organization for Security and Cooperation in Europe (OSCE) on the abolition of the death penalty, and to make this information available to the public. The European Union meets the purposes of this document by periodic data within the framework of the humanitarian dimension of the Organization for Security and Cooperation in Europe²¹.

The Protocol to the American Convention on Human Rights to abolish the death penalty stated that the States Parties to this Protocol shall not apply the death penalty in their territory to any person subject to their jurisdiction, and the prohibition of any reservations on the contents of the protocol, but authorized the Member States, upon ratification or accession, to declare that it reserves the right to apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.²²

In the Arab States, the death penalty still exists, and enshrined in the penal laws in force, but the Arab Charter for Human Rights Amendment in 2004 provided that: " the Sentence of death shall not be imposed on persons under 18 years of age, unless otherwise stipulated in the laws in force at the time of the commission of the crime; the death penalty also shall not be inflicted on a pregnant woman prior to her delivery or on a nursing mother within two years from the date of her delivery; in all cases, the best interests of the infant shall be the primary consideration".²³

II- The International Experience in the Abolition of the Death Penalty

²⁰ The Protocol was issued on April 28, 1983, and went into force on the March 1, 1985.

²¹ Guidelines for the European Union on the death penalty.

²² American Protocol in question was issued on June 8, 1990.

²³ Article 7 of the Arab Charter of Human Rights of 23 May 2004.

At the doctrinal level, There were different views towards dealing with the death penalty among supporters and opponents. Supporters of the death penalty attribute support for several reasons, including:²⁴ 1) Society has a right to impose death penalty. It is false to argue that society can not deny individuals their right to life, because society has not granted life to man. However, the opponents respond that such logic can be used to deprive individual of all their human rights, since society is not the party the granted such rights. Therefore, it is not possible to deprive a person from his personal liberty so that imprisonment and deprivation of liberty are not allowed. 2) If the death penalty is grave, in terms of possible errors on part of the judge, imprisonment is a graver punishment and also unfair, as it affects the person's health and life. A life sentence may be more harmful than death itself. 3) Even if the death penalty has not led to a reduction in the criminal motives of serious criminals, it has undoubtedly contributed to a considerable decrease in the number of criminals which is the most important. 4) If criminals' fear of death penalty could not deter all criminals, it does deter some criminals and thus limits the level of crime. 5) Sentencing a premeditated murder to death is not issued by the competent court hastily or to avenge of a criminal regardless of enormity of the crime committed. The Court takes a rather long time before that the judge is convinced of uttering the death sentence which usually issues after overwhelming evidence is made available and after the death sentence is discussed at more than one level of litigation. Most importantly it is issues after all guarantees of fair trial are ensured. 7) Revenge²⁵, especially in Arab societies, is a phenomenon that is unlikely to be eradicated or limited unless through the death of the person who killed another. This is the only punishment acceptable to the victim's family. The abolition of death penalty in the penal code would therefore reinforce the culture of revenge that calls for taking the law into the people's hand.

In addition, the French Professor Frye, one of the notable legal figures in the 20th century stated that: "The death penalty will be abolished the day the public opinion and tradition considers the next punishment sufficient to defend society". Sir Alex Paterson also said that "experience has proved that crime increases when the death penalty is replaced, and also proved that, for several reasons, the number of death penalties issued and executed, which points out to the good impact achieved by the death penalty²⁶".

Opponents of death penalty²⁷ argue for the abolition of this punishment due to the following reasons: 1) From a philosophical perspective, Professor Cesare Beccaria believes that the purpose of death penalty is not the punishment of a criminal that did occur, but the prevention of the occurrence of such act in the future. This point of view is contrary to Jean-Jacques Rousseau's theory of social contract according to which the individual has authorized the State in advance the power to take his own life. For Rousseau, the State is not permitted to impose death penalty except in difficult political circumstances, which means that is not allowed to apply the death penalty in normal circumstances. 2) When an offender is punished, the best interest of society

²⁴ Ghassan Rabah, *the Summary of the death penalty - a comparative study on the end of the sentence*, (Beirut: al-Halabi Legal Publications, 2008), p. 7.

²⁵ During a workshop on death penalty held by ICHR on 4/11/2009, the Palestinian Chief Military Justice Ahmed Al-Mubaid stated that "even though death penalty is enforced on horrible crimes that "turn newborn's hair gray" which are only punishable by death. Moreover, the issue of revenge in the Palestinian society must be taken accounting when abolition of the death penalty is discussed. The fact is id the murderer in not executed in accordance to a court sentence, the victim relatives will seek all means to kill the murderer themselves, even if placed under the protection of the security agencies. For example, one of a victim's relatives broke into the Jericho prison where a person accused of murder was held and killed him and other persons uninvolved in the crime.

²⁶ Ghassan Rabah. A previous source. Page 9.

²⁷ Ibid

dictates that this punishment contribute to his reform and rehabilitation which obviously can not be achieved if the offender was executed. 3) Damage ensuing from death penalty is endless, irrevocable, and incommensurate with the crime committed by the convicted person. 4) Death penalty can not be revoked or corrected if after its execution an error is discovered in the sentence or the victim was proven innocent. 5) Society has not granted life to the individual and therefore does not have the right to take it. 6) All monotheistic religions conclusively assert that human beings are not allowed to take their own lives by committing suicide. By the same notion a person must not be allowed to be killed by others regardless of the status bestowed on the others. 7) Death penalty has not deterred criminals. This is evident in countries which saw no increase in the number of crimes punishable by death penalty after the abolition²⁸ of capital punishment. Similarly, the same category of crimes has not declined in the country that retained such punishment in their legal system.

On a practical level, many countries have resorted to abolish the death penalty in its legal system and legislature, as well as through actual practice where we find that the international community is divided into four categories in terms of implementing the death penalty, as follows :

1. 95 Countries abolitionist for all crimes

Countries whose laws do not impose the death penalty for any crime: (Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Butane, Bosnia and Herzegovina, Bulgaria, Cambodia, Canada, Cape Verde, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Kyrgyzstan, Cyprus, Denmark, Djibouti, Dominican Republic, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Guinea, Haiti, Honduras, Hungary, Iceland, Ireland, Italy, Kiribati, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova, Monaco, Montenegro, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niue, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Rwanda, Samoa, San Marino, São Tomé and Príncipe, Senegal, Serbia, Seychelles islands, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sweden, Switzerland, Timor - Leste, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Vanuatu, the State of the Vatican City, Venezuela, Burundi and Togo).

Some of these countries have abolished the death penalty for more than a hundred years, as is the case in Venezuela, where the death penalty is no longer implemented since 1863.

2. 9 Countries abolitionist for ordinary crimes only

Countries whose laws provide for the death penalty only for exceptional crimes such as crimes under military law or crimes committed in exceptional circumstances, such as during wartime. The laws of those States do not impose the death penalty for ordinary crimes, but apply

²⁸ In a workshop on death penalty held by ICHR on 4/11/2009, the PNA Public Executor, Counselor Ahmed Moghani, said that he is personally against the death penalty, but from practical experience and direct knowledge of some crimes, he feels that some crimes whose perpetrators should be punished by death. The Islamic Scholar Hamdi Murad believes that "death penalty must not be eliminated from the Qur'an or Sunnah, but its application should be suspended until further notice when the time becomes appropriate and the human societies mature".

punishment of a less degree of the death penalty; they are: Bolivia, Brazil, Chile, El Salvador, Fiji, Israel, Kazakhstan, Latvia, and Peru²⁹.

The last sentence implemented in these countries was in Latvia in 1996, and the last execution carried out in Brazil was in 1855.

3. 35 Countries abolitionist in practice however not in national laws

Countries that retain the death penalty for ordinary crimes such as murder but can be considered abolitionist in practice in that they have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions. The list also includes countries which have made an international commitment not to use the death penalty. In Algeria, a moratorium on the implementation of the death penalty has been announced since 2004.

The suspension of the practice of torture and moratorium of the death penalty were a condition for the partnership agreement between Algeria and the European Union to enter into force. In Morocco, despite the validity of the death penalty, there is an actual moratorium on implementation since 1993; King Mohammed VI has not signed any executive decree to implement the punishment since his ascension to the throne in 1999. Among the countries whose legislation include the death penalty, but issued a moratorium on the implementation process are: (Algeria, Benin, Brunei, Burkina Faso, Central African Republic, Congo Republic, Eritrea, Gabon, Gambia, Ghana, Granada, Kenya, South Korea, Laos, Madagascar, Malawi, Maldives Islands, Liberia, Mali, Mauritania, Morocco, Myanmar, Nauru, Nigeria, Papua New Guinea, Russian Federation, Sri Lanka, Surinam, Swaziland, Tonga, Tunisia, Zambia, and Tajikistan).

The Russian Federation introduced a moratorium on executions in August 1996. However, executions were carried out between 1996 and 1999 in the Chechen Republic. "We believe that some of these countries have not carried out any provision for execution within their territories for over thirty years, as is the case in Niger, despite the fact that national laws still cite the death penalty.

4. 58 Retention countries

These are the countries and areas that retain the death penalty for ordinary crimes; the legal system in these countries stipulate imposing the death penalty for certain regular crimes, namely: Afghanistan, Antigua and Barbuda, Bahamas Islands, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Chad, China, Udzima wa Komori, Democratic Republic of Congo, Cuba, Dominica, Egypt, Equatorial Guyana, Ethiopia, Guatemala, Guinea, Ghana, India, Indonesia, the Islamic Republic of Iran, Iraq, Jamaica, Japan, Jordan, South Korea, Kuwait, Lebanon, Lesotho, Libya, Malaysia, Mongolia, Nigeria, Oman, Pakistan, the Palestinian Authority, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent, Grenadines Islands, Saudi Arabia, Sierra Leone, Singapore, Somalia, Sudan, Syrian Arab Republic, Taiwan, Thailand, Tobago, Uganda, United Arab Emirates, United States, Uzbekistan, Viet Nam, Yemen and Zimbabwe.³⁰

²⁹ <http://www.amnesty.org/en/death-penalty/countries-abolitionist-in-practice>

³⁰ <http://www.amnesty.org/en/death-penalty/countries-abolitionist-in-practice>

Based on all of this, ICHR finds it important for the Palestinian National Authority to take into consideration the multiple international experiences in issuing moratoriums on the death penalty as a step on the path to its abolishment. It is essential in the breakdown of the work of the Legislative Council and the absence of the possibility of amending the Penal laws applied to the West Bank and Gaza Strip which impose the death penalty on many acts which do not meet the status of "most serious crimes" as stated by the International Covenant on Civil and Political Rights. ICHR also recommends that the Palestinian National Authority performs a temporary procedure in this regard by issuing a moratorium on death penalty for all crimes.