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## **“The Legal and Ethical Position of International Bodies on Death Penalties”**

### **Dr. Tayba Anwar**

In charge Department of Political Science & International Relations, Government  
College Women University Faisalabad, Pakistan

Email: taybamon@gmail.com

### **Ms. Sadia Yasmeen**

Bachelor scholar, Department of Political Science & International relations, Government  
College Women University Faisalabad, Pakistan

Email: sadiayasmeen211@gmail.com

### **Moazama Anwar**

Clinical Psychologist, Incharge Adolescent Health Center, Allied II Hospital Faisalabad

Email: moazamaanwarfhc@gmail.com

### **ABSTRACT**

This paper provides a comprehensive analysis of the legal and ethical position adopted by major international bodies regarding the death penalty, tracing its evolution from a regulated practice to a fundamental human rights issue. The study examines the critical legal framework established by the International Covenant on Civil and Political Rights (ICCPR), which, while not abolishing the punishment entirely, strictly limits its application to the “most serious crimes” and insists on rigorous fair trial guarantees. It further explores the explicit abolitionist mandate of the Second Optional Protocol to the ICCPR and other regional instruments such as the Protocols to the European and American Conventions on Human Rights. This research work uses qualitative research methodology and based on secondary data sources in Constructivism theoretical framework. Beyond legal statutes, the paper delves into the core ethical arguments advanced by entities like the United Nations General Assembly, the Office of the High Commissioner for Human Rights (OHCHR), and leading NGOs. These positions challenge the death penalty on the grounds of its irreversibility (risking execution of the innocent), its discriminatory application against marginalized groups, and the absence of conclusive evidence for its deterrent effect. The analysis concludes that international bodies have systematically constructed a robust normative framework that redefines capital punishment not as a criminal justice tool, but as a violation of fundamental human rights. This framework exerts significant moral and political pressure on retentionist states, advocating for a global moratorium as a definitive step towards universal abolition.

**Key words:** Death Penalty, International Human Rights Law, Abolition, Right to Life, ICCPR, United Nations, Human Dignity, Most Serious Crimes, Fair Trial Guarantees, Moratorium



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### Introduction

Death penalty is one of the most complex and controversial punishment in criminal justice. And it is also known as “Capital Punishment”. Over centuries, international legal bodies and frameworks have questioned about it’s role, work, and legitimacy on legal and ethical grounds. The international legal bodies such as United Nations (UN) and European Union (EU) have consistently emphasized the eradication of death penalty as a step toward upholding human dignity (Schabas,2002). In a legal way and perspective, death penalty has been constrained by treaties and protocols such as International Covenant on Civil and Political Rights (ICCPR), which allows death penalty only for the “most serious crimes” and mandates vigorous protections of fair trial, appeal, and due process. The International Covenant on Civil and Political Rights (ICCPR) under Article 6 strictly limits the use of capital punishment and encourages states to move toward its complete abolition (Jouet, 2023).

One of the most important ethical challenges is there are many states in the world that still retain death penalty, assert it is a matter of national sovereignty tied to domestic law, culture, or public opinion. But international legal laws such as custom, treaties, and UN resolutions increasingly frames the death penalty as not only a legal issue but part of human rights law. Amnesty International has also played a vital role in global campaigns, recording executions and highlighting their human rights implications (Nowak, 2005).

Another issue comes from the word “most serious crimes”, one of the key legal limits under ICCPR. What are the crimes that count as most serious is debatable.

International legal bodies are gradually converging towards abolition or strong restriction, but most of the challenges remains such as sovereignty, divergent moral, and legal traditions, uneven enforcement, and data gaps (Ethan, 1990).

Capital punishment raises ethical concerns because it is irreversible, wrongful convictions are a serious risk (Arifullah,2024). There is a fact of racial and socioeconomic biasness in how capital punishment is applied, poor defenders, minorities more likely to be sentenced to death. The right of life is a vital legal norm challenged by the capital punishment; many legal systems struggle to reconcile death penalty with evolving human rights law.

The local engagement by human rights INGO’s is strongly and positively linked with a country’s more to complete eradication of capital punishment (Kim,2016).

There is a argument that while the council of Europe was already ideologically predisposed towards human rights, the NGO influence helped accelerates and concretise legal commitments link Protocol No 6 and other instruments (Sithole,2016).

Nadelmann explained that “prohibition norms” that arise in international society norms in both international law and domestic criminal law that seek to prohibit certain practices (like slavery, piracy, counterfeiting, hijacking of aircraft, trafficking) rather than the merely regulate them (Nadelmann,1990).

Robert in his essay “Power and Weakness”, discuss the divide between Europe and United States regarding the use of power and international law. He explained and argued that while Europe has moved towards a postmodern order rooted in laws, negotiations, and multilateral cooperation, the United States relies more heavily on military force, unilateral action, and coercive strategies to protect global security. This difference extends into ethical questions such as capital punishment. Europeans increasingly perceived the capital punishment as a violation of international human rights norms, linking it to America’s “culture of death” and a reliance on punitive justice, while U.S.



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considers it a sovereign legal tool within a Hobbesian world of threats and insecurities (Robert Kagan, 2002). He shows that international bodies, largely influenced by European norms, emphasize abolishing the capital punishment through legal instruments and conventions, whereas U.S. resistance reflects its prioritization of sovereignty over universal moral standards.

According to Manners, while EU can exert normative pressure (diplomatic, political, conditionally for accession or cooperation) to promote the capital punishment abolition, this is not always consistent or uncontroversial. He argues that EU acts as a “normative power” a political actor that seeks to shape what is considered normal or acceptable in international relations, rather than relying primarily on military or economic coercion (Manners, Ian 2002).

### **Theoretical Framework**

This research work uses Constructivism theoretical framework to analyse the legal and ethical position of international bodies on death penalties. It views that international behaviour is shaped by norms, ideas, shared beliefs, not just material power. It fits perfectly because debates over the capital punishment are moral and normative, not purely strategic. By applying to the capital punishment, Constructivism directs attention firstly to how international bodies frame death penalty morally and legally, secondly how civil society and states interact to diffuse abolitionist norms, and thirdly why some states resist or reinterpret international frames due to identity, domestic politics, or perceived security needs.

### **Research Statement**

This research examines how the international bodies legally and ethically position themselves on capital punishment, and how a constructivist analysis interprets the divergence between international normative pressure and persistent state-level of use of death penalty?

### **Rationale**

The capital punishment is one of the most debated issues in international law and human rights discourse. International bodies such as United Nations, European Union, and Amnesty International play a vital role in shaping global perspectives on death penalty. Their legal frameworks highlight the growing tensions between the state sovereignty and universal human rights. To understand these positions is important for analyzing how international norms influence domestic legal system. This work aims to define the legal and ethical stance of international bodies to highlight the future direction for reimagining global justice.

### **Research Questions**

What legal and ethical positions have international bodies adopted regarding the capital punishment

Why do some states internalize anti death penalty norms while others continue or increase executions?

What are the important possible future directions for international law regarding universal abolition of the death penalty?



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### **Research Objectives**

To map the legal and ethical statements by international bodies concerning the capital punishment

To explain variation in state compliance and to suggest policy actions that accelerate norm internalization by applying constructivist theory.

To identify the future trajectory of international norms toward universal abolition of capital punishment

### **Methodology**

#### **Research Design**

This research work uses a qualitative research design that is grounded in the Constructivist paradigm, focuses on how international legal and ethical positions on the death penalty have been socially and institutionally constructed with the passage of time. The main aim of this research is to interpret and synthesize the evolving discourse within international law and human rights frameworks, rather than to test a specific casual hypothesis.

#### **Data Sources and Sampling Technique**

This research work is depends on secondary data that is collected through document analysis. In this research, the purposive sampling technique was used to select related documents, treaties, resolutions, and institutional reports that directly focus and resolve the legal and ethical dimensions of the capital punishment.

The selected sample included:

The primary legal instruments: Universal Deceleration of Human Rights (1948), International Covenant on Civil and Political Rights (ICCPR,1966), Second Optional Protocol to the ICCPR (1989), European Convention on Human Rights (ECHR), and American Convention on Human Rights (ACHR).

Institutional statements and resolutions: from the United Nations General Assembly, Office of the High Commissioner for Human Rights (OHCHR), European Union (EU), and African Commission on Human and Peoples Rights.

Reports and advocacy publications: By Amnesty International, Human Rights Watch (HRW), and other global NGOs work for the eradication of death penalty.

#### **Sample Size**

Approximately 40-50 key documents that are published between 1948 and 2024, analyzed is this work, that ensure comprehensive coverage of evolving legal and ethical positions across different regions and time periods.

#### **Inclusion Criteria**

The international treaties, conventions, or protocols addressing the capital punishment or the right to life

Official resolutions, reports, or statements from recognized international or regional bodies.

Scholarly and institutional documents available in English and published in peer-reviewed journals, or on official organizational websites

Materials that present legal or ethical reasoning, rather than purely statistical or political commentary



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### **Exclusion Criteria**

The national level documents or domestic legislation not directly linked to international legal frameworks.

Opinion based media articles, editorials, or non-verified online sources.

The documents focus on procedural or forensic aspects of executions without legal or ethical context.

### **Data Analysis Procedure**

The thematic context analysis approach was employed. Each document was systematically coded for recurring legal and ethical themes.

### **Major Findings and Analysis**

The United Nations, regional courts and human rights NGO's, increasingly push for eradication or strong limits on death penalty. These are relied on treaties, standards, monitoring reports and case law to argue that death penalty should be very narrowly used (if at all) and that many current practices violated human rights.

Legal and Ethical positions adopted by International Bodies regarding capital punishment

The United Nations has formed a clear legal stance by using instruments such as the Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (ICCPR, 1966), and the Second Optional Protocol to the ICCPR (1989), which called for the abolition of capital punishment. Ethically, the UN views death penalty as incompatible with human dignity and the right to life. Like this, European Union bans the death penalty entirely among its member states under the Charter of Fundamental Rights of the EU (2000) and the European Convention on Human Rights (ECHR). It also uses diplomatic and trade policies to encourage abolition in non-member countries. The Amnesty International, in its Annual Reports on Death Sentences and Executions (2023), classifies the capital punishment as a moral and human rights failure, emphasizing that no state can ensure a fair and error-free execution system (Manners, 2002).

International bodies: consistent moral-legal pressure toward abolition or restraint: The International bodies, that are led by the UN General Assembly and treaty-monitoring organs, have framed the capital punishment as increasingly incompatible with human rights standards. The ICCPR focus on the right to life but allows death penalty under strict limitations; however, interpretive practice such as Human Rights Committee General Comment No. 36 focus on limiting the scope of death penalty and ensuring procedural guarantees (United Nations, 1989).

Civil society and data: evidence and advocacy drive normative pressure: The NGOs, especially Amnesty International, has high-visibility documentation of death sentences and executions. Its empirical reports expose trends, identify problem states, and provide evidence for UN debate and advocacy campaigns. Its recent global reports document substantial increases in executions in particular years and reveal that executions are highly concentrated in a small number of countries, a pattern that advocacy leverages to target norm entrepreneurs and sympathetic states (UN, 2018).



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### **Variation in State Compliance and Norm Internalization**

States differ significantly in their internalization of anti death penalty norms. The Constructivist theory helps to explain this variation by focusing on how norms spread through social interaction, identity, and moral persuasion rather than coercion. For instance, European and Latin American countries have fully internalized abolitionist norms due to regional cooperation and shared democratic values. Other than this, the countries such as China, Iran, Saudi Arabia, and the United States continue to retain and justify capital punishment based on cultural, religious, or deterrent arguments. This shows a tension between state sovereignty and universal human rights norms, where domestic legal traditions and political systems shape how international norms are accepted or resist (Clark, 2010).

**Constructivist interpretation: norm life-cycle and contested Identities:** The application of Constructivism theory clarifies this divergence. The norm entrepreneurs such as NGOs, UN actors, abolitionist states have successfully framed death penalty as morally problematic, generating a normative in many regions. Internalization is incomplete in states where political identity, historical experience, or perceived security threats form abolition politically costly. Most of the governments frame executions as legitimate responses to crime, terrorism or drugs, resisting international pressure. Constructivism reflects that legal instrument matter, but social acceptance that is shaped by domestic discourse, elites, and identity which identify whether norms take root. Finnemore & Sikkink's life-cycle describe that the partial success like emergence and cascade are visible, but internalization is ongoing and incomplete in multiple regions (Finnemore, 1998).

**Procedural and ethical concerns remain globally relevant:** The International bodies explain that where the capital punishment exists it must be applied only after full respect for due process, non-discrimination, and prohibition of cruel methods. The international monitoring continues to document violations: deficient legal representation, secretive procedures, discrimination and use for non-violent offenses. These procedural failings offer a strong ethical argument for abolition and for urgent interim moratoria (Sikkink, 1998).

### **Legal framework used by international bodies**

**Treaties and Protocols:** The main treaty instrument aiming at elimination is the Second Optional Protocol to the ICCPR (1989), which asks states to abolish the capital punishment. Many states have joined it, but important retentionist states have not. The international bodies point to this Protocol as the clearest legal commitment towards eradication.

**UN standards and safeguards:** The UN has non binding but authoritative texts such as the UN Safeguards Guaranteeing Protection of the Rights of those facing the capital punishment (adopted 1990, consolidated later). These types of safeguards minimum fair-trials rights, the right to seek pardon, and say the death sentences should only be for the "most serious crimes". These safeguards used as baseline legal standards by UN organs (United Nations, 1989).

**Regional rules:** The council of Europe remove the death penalty across its membership through Protocol No 13 to the European Convention (2002). The European court of



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Human Rights jurisprudence treats abolition as a human-rights milestone and constrain any re-introduction.

### **Norms and the trend: abolition as the global direction**

**Growing abolition in law or practice:** From over recent decades a large majority of states have either abolish the capital punishment in law or stopped using it in practice. The international bodies describe abolition as the “trend” and encourage moratoria as a step toward full abolition.

**UN moratorium movement:** The UN general assembly regularly adopts resolutions calling for a world moratorium with a view to elimination. The secretary general and OHCHR collect country inputs and report on developments signalling continuing the international political pressure (OHCHR, 2021).

### **Ethical arguments used by international bodies and scholars**

International bodies and many scholars present several ethical strands:

**Right to life and dignity:** One of the most central ethical frames is that the state should not intentionally take life as punishment because it undermines human dignity and the right to life. It is regarded as the normative backbone of abolitionist policy.

**Irreversibility and miscarriages of justice:** The probability of wrongful convictions makes death irreversible, international reports use exoneration data and innocence cases to argue against death penalty.

**Discrimination and arbitrariness:** The evidences shows that death penalty is often applied in discriminatory ways such as race, poverty, minorities. This thing treats as an ethical and legal problem by international bodies, the punishment that applied unfairly cannot be justified.

**Deterrence contested:** The scholarly reviews find no clear proof that capital punishment deters crimes more than life imprisonment, international policy organs use this trend to argue the capital punishment is unnecessary (Radelet, 2009).

### **Gaps, challenges and criticisms identified by international bodies**

**Selective enforcement and Political use:** International monitoring documents shows that the capital punishment sometimes used for political repression, or in contexts with weak judicial interdependence that is a major legal and ethical concerns.

**Secrecy and data gaps:** Most of the countries in the world that withhold execution data (notable China, North Korea, Vietnam) that made global assessment and normative pressure harder.

**Non binding instruments and state sovereignty:** Most of the UN standards are non-binding, states cite sovereignty and domestic law. This legal reality slows universal eradication despite moral pressure (UN Office of High Commissioner, 2022).



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### **UN General Assembly: consistent call for a global moratorium**

The United Nations General Assembly consistently adopted resolutions calling for a moratorium on executions as a step toward abolition. It frames the capital punishment as incompatible with international human rights norms and urges states to move toward abolition.

### **NGO's (Amnesty International, Human Rights watch)**

These provide the most used global statistics and sharp normative criticism. This emphasis that most executions are concentrated in a few countries (China, Iran, Saudi Arabia, Iraq, US among top lists) and frequently criticise for non-violent crimes and due process failures (Amnesty International, 2023).

### **Key International legal texts and documents**

#### **International Covenant on Civil and Political Rights (ICCPR) 1964, Article 6:**

According to this article everyone has the right to life. States that still have capital punishment must limit it to the most serious crimes, must allow commutation or pardon must not execute people under 18 or pregnant women, and abolition is encouraged.

**Second Optional Protocol to the ICCPR (1988):** This is aiming at the abolition of capital punishment. The treaty committing states parties to eradicate the capital punishment which entry into force 1991. Those states that ratify it accept an international obligation to abolish (Organization of American state, 2023).

**ECOSOC Safeguards (Resolution 1984/50):** This safeguard guaranteeing protection of the Rights of those facing the capital punishment (1984). According to this non-binding but authoritative list of protections such as fair trials, limit to most serious crimes, rights to appeal etc.

### **UN General Assembly moratorium resolutions on the use of death penalty:**

It is first adopted on 2007 and renewed every 2 years. According to this, political (non-binding) resolutions calling for a moratorium on executions as a step toward abolition, over time they show rising global political support for ending executions (UN General assembly, 2022).

**UN Charter (Article 55 and Article 56):** These Articles play a fundamental role in shaping the international community's legal and ethical stance on the capital punishment. Article 55 focus on the promotion of universal respect for human rights and fundamental freedoms without discrimination of any kind It introduces the principle that peace and stability are inseparable from the protection of human dignity. And the Article 56 complements this by obligating all member states to take joint and separate action, in cooperation with the United Nations, to achieve the goals mentioned in Article 55. These provisions form the ethical bases upon which international bodies such as the United Nations Human Rights Council (UNHRC) and the Office of the High Commissioner for Human Rights (OHCHR) base their opposition to death penalty. By linking respect for life and human rights with global peace, these articles encourage member states to gradually move toward the abolition of the death capital punishment as part of their human rights commitments. Both of these highlight that maintaining the death penalty



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contradicts the UN's vision of promoting human dignity, justice, and equality for all (United Nations,1989).

**Amnesty International annual reports on death sentences and executions:** These provide critical insights into the global legal and ethical perspectives on the capital punishment. Every year, Amnesty International documents the number of death sentences imposed and executions carried out worldwide, highlighting trends, regional practices, and violations of international human rights standards. By looking at its 2024 Annual Report, we observed that over 1,153 executions were recorded across 16 countries, marking the highest number since 2015, with Iran alone accounting for more than 70% of the total executions. It condemns these acts as violations of the right to life under the Universal Declaration of Human Rights (Article 3) and stresses that the use of the capital punishment often follows unfair trials, torture-induced confessions, and discriminatory application. It argues that death penalty fails to deter crime and instead perpetuates cycles of violence and injustice. Amnesty International urges states to impose moratoriums and move toward complete abolition, aligning with the ethical principles of human dignity and international legal obligations under the UN Charter and International Covenant on Civil and Political Rights (Amnesty International ,2023).

### **Future Directions and Norm Trajectory**

The trajectory of international norms not only a gradual but regular movement toward global abolition The growing number of UN General Assembly resolutions calling for a moratorium on executions and the influence of regional human rights courts, such as the European Court of Human Rights and the Inter-American Court of Human Rights, focus on increasing international alignment against the death penalty. In an ethical way the emphasis is shifting from state retribution to restorative and rehabilitative justice models. International campaigns, like Amnesty's "Abolish the Death Penalty" initiative, have successfully pressured many countries such as Kazakhstan, Sierra Leone in order to abolish capital punishment in recent years (Human Rights Watch,2021).

### **Application of Constructivism**

This theory helps to explain not just what international bodies say but how their statements gain force. The Small networks of activists and sympathetic states framed death penalty as a human-rights violation after WWII, linking it to dignity and the right to life. The NGO reports and expert committee commentary functioned as norm entrepreneurs. The evidence is the longstanding NGO campaigns and UN statements calling for moratoria. As the more countries using UN moratorium resolutions and adopted abolitionist laws domestically, the norm spread regionally. The States seeking international legitimacy or identifying with human-rights blocs internalized the anti-death-penalty norm. Voting records on successive UN moratorium resolutions track this cascade. It occurs when states cease to view the capital punishment as appropriate policy. However, where the practice is linked to national identity such as punitive justice narrative, or political calculus such as deterrence claims, populist pressure, internalization stalls. It highlights that legal texts alone cannot compel change; international persuasion and domestic socialization are necessary.



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### **Conclusion**

The International bodies have established a clear legal and ethical stance that support abolition or, at minimum, strict restriction and moratoria on the use of the capital punishment. The Constructivist theory explains how these positions emerged and spread by using norm entrepreneurship, advocacy, and institutional framing. Despite this, because norms are socially constructed and mediated by domestic identity and politics, international positions do not automatically translate to uniform practice. The path to more extensive internalization requires sustained international advocacy, targeted engagement with high-use states, improved procedural safeguards, and efforts to shape domestic social norms. In the meantime, international bodies must continue to document abuses and promote transparency, as empirical evidence remains a key instrument in pressing for change and a path toward reimagining justice.

### **Recommendations**

The international legal bodies should focus on standardized reporting on death sentences and executions and create incentives for transparency such as technical funding.

The regional courts and human rights bodies can be influential, promote regional dialogues to catalyze domestic norm shifts.

A stronger push for binding procedural protections where the capital punishment remains (public trials, appeal rights, prohibition for minors and people with mental disability)

### **Limitations**

This research work relies on secondary data resources. It does not include the primary data collection like interviews or fieldwork.

The Constructivist theory interpretations captures broad processes but may oversimplify state specific politics that also shape capital punishment policy.

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