

Introductory remarks

ECOSOC Report on Capital punishment

21 July 2020

The report of the Secretary-General on Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty now before the Economic and Social Council is the tenth quinquennial report of the SG to the Council on capital punishment. The present report covers the period January 2014 to December 2018. It reviews developments and trends in the use of capital punishment.

All United Nations Member States were invited to contribute information to the report by means of a detailed questionnaire (the “survey questionnaire”). Survey questionnaires were returned by 60 States. In accordance with resolution 1995/57, in which the Council requested the Secretary-General to draw on all available data and to invite the comments of specialized agencies, intergovernmental organizations and non-governmental organizations in consultative status with the Council, the report drew information from such sources, including from the work of the Human Rights Council and the General Assembly. Documents produced in the course of the universal periodic review as well as by treaty bodies and the special procedures of the Council also were sources of information, as well as reports from non-governmental organizations.

The report outlines changes in the status of the death penalty in the period 2014-2018. States and territories are classified using five categories:

(a) Abolitionist for all crimes, whether in time of peace or war;

(b) Abolitionist for ordinary crimes, meaning all ordinary offences committed in peacetime, such as those contained in the criminal code or those recognized in common law (for example, murder, rape and robbery with violence), and that the death penalty is retained only for exceptional circumstances, such as military offences in wartime, or crimes against the State, such as treason, terrorism or armed insurrection;

(c) Abolitionist de facto, that is, where the death penalty remains lawful and death sentences may still be pronounced but executions have not taken place for 10 years. States where executions were carried out within the previous 10 years but that have made an international commitment through the establishment of an official moratorium are also designated as de facto abolitionist;

(d) Retentionist in practice, that is, States in which the death penalty remains lawful and that have conducted executions during the previous 10 years.

At the end of December 2018, 167 States were deemed abolitionist either in law or in practice and 30 States were classified as retentionist. This compares with 159 abolitionist States and 38 retentionist States

at the end of the previous quinquennium (2009–2013). During the survey period 2014–2018, no State that had previously become abolitionist, either in law or in practice, reverted to the use of capital punishment.

The report then goes on to outline international developments relevant to capital punishment, including resolutions of the General Assembly, work of the Human Rights Council, of the Office of the UN High Commissioner for Human Rights, and work of regional organizations. It also provides information on international treaty obligations to which States have committed during the survey period, in particular under the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

The report then considers the implementation of the Safeguards guaranteeing protection of the rights of those facing the death penalty, which were adopted by the ECOSOC in 1984 and updated in 1989. It contains detailed elaboration on Safeguard 1 relating to the imposition capital punishment “only for the most serious crimes” namely intentional crimes with lethal or other extremely grave consequences; Safeguard 3 on the prohibition of execution for crimes committed when the offender was below 18 years of age; Safeguard 5 on fair trial guarantees; and Safeguard 9 on Minimizing suffering.

The tenth quinquennial report marks half a century of submitting and analysing information on the subject of capital punishment and thus provides an opportunity for considering trends and developments over the last 50 years. Since the first quinquennial report in 1975, the number of States that are abolitionists in law or in practice has grown from 32 to 167. The number of States that retain the death penalty is now 30, compared with 101 at the time of the first report. In retentionist States, the trend is to reduce the number of offences for which the death penalty may be imposed.

During the five-year period covered by the present report, there was a significant increase in the total number of executions and suggestions for a revival of capital punishment. By the end of the quinquennium, however, the pattern has stabilized and returned to one consistent with the trend over previous decades. The number of recorded executions in the final year, 2018, was the lowest in many years.

A number of recommendations are presented for consideration by the ECOSOC.

One is that States that continue to apply the death penalty be urged to report on the number of persons sentenced to death or executed and the crimes for which capital punishment is applied, taking into account that transparency is a requirement for fair and effective criminal justice. The need to abide by the Safeguards protecting those facing the death penalty could be reiterated by the Council, in particular the absolute prohibition of the execution of juvenile offenders which is still not universally applied.

Finally, the Council may wish to invite States, in any criminal justice reform that involves the death penalty, to be guided by the full scope of standards and norms relating to the criminal justice system, including those relating to the treatment of prisoners, the treatment of children in the criminal justice system, special measures for female offenders, due process guarantees and the right to legal assistance, which provide detailed guidance to Member States on how to comply with their obligations under the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women and other relevant conventions.