

## Podcast 17: International

Kayla: Hello and welcome to the Death Penalty Information Center podcast, exploring issues related to capital punishment. In this edition, we will be discussing international views on the death penalty, and how those views might affect capital punishment in the United States.

Anne: I am Anne Holsinger, Special Projects Assistant at the Death Penalty Information Center.

Kayla: And I'm Kayla Sullivan, an intern at the Center. We will begin by exploring the use of the death penalty in other countries.

Anne: The United States is unusual among Western, industrialized countries in its use of the death penalty. All of the countries of the European Union have abolished capital punishment, along with Canada, Mexico, and Australia. 139 countries are abolitionist in law or in practice. The term "abolitionist in practice" refers to countries that have not carried out an execution in at least 10 years, even if the death penalty is still allowed by law. The use of the death penalty is most common in the Middle East and Asia. According to Amnesty International, the 5 countries that carried out the most executions in 2010 were China, Iran, North Korea, Yemen, and the United States. China does not release records of its executions, but Amnesty International estimates that thousands of people were executed in China in 2010, implying that China carried out more executions than the rest of the world combined.

Kayla: This international ranking, however, does not account for relative population size. The United States carried out 46 executions in 2010, but with a population of over 300 million, the execution rate is about 1 execution per 7 million residents. Conversely, Libya carried out only 18 executions but had a much higher execution rate of about 1 execution per 360,000 residents.

Anne: Countries vary significantly in defining which crimes can be punished with the death penalty. Several countries, including China, impose the death penalty for drug-related crimes. In Singapore, for example, death sentences are mandatory for certain drug-related offenses, and are often imposed on foreign nationals. A small number of countries also allow the death penalty for political or religious dissent. Last year in Iran, 17 members of Kurdish opposition groups were sentenced to death for "enmity against god," and in Pakistan, a Christian woman was sentenced to death for blasphemy.

Kayla: Worldwide, the use of the death penalty is in decline. In the mid-1990s, about 40 countries carried out executions each year, but in 2009, only 19 countries executed anyone. That was the lowest number ever recorded by Amnesty International. The number of countries that are abolitionist in law or practice has grown significantly since 2001, rising from 108 to 139. Gabon, Burundi, and Togo legally abolished the death penalty in the last two years. In 2010, a UN resolution calling for a moratorium on the death penalty passed by a vote of 109-41, with 35 abstentions. The U.S. voted against the resolution.

Anne: International trends in capital punishment, and international opinion on the death penalty can affect the United States in several ways. One way is through treaties that the U.S. has ratified.

Kayla: Along with 172 other countries, the United States has ratified the Vienna Convention on Consular Relations. Under the Vienna Convention, any foreign citizen arrested in the United States must be notified of their right to inform their consular representatives of their arrest. The consulate is also to be informed of the arrest by the U.S. The foreign consulate can then assist the arrested person with representation or other legal help. Although the United States has agreed to these terms, many local law enforcement officials have failed to notify foreign citizens of these rights. As a result, in 2004, the International Court of Justice in the Case concerning Avena and Other Mexican Nationals, found that the United States had violated its obligations towards 51 Mexican citizens sentenced to death in the United States. One such inmate, Humberto Leal, was executed on July 7, 2011, despite requests for a stay of execution from the U.S. Solicitor General and the UN High Commissioner for Human Rights.

Anne: On the issue of consular rights, national leaders and diplomats have pointed out that the United States' treatment of foreign citizens may affect how other nations treat American citizens who are detained abroad. Former U.S. Representative to the U.N., Thomas Pickering, wrote: "Clearly, the safety and well-being of Americans abroad is endangered by the United States maintaining the double standard of protesting denials of consular notification and access to its own citizens while simultaneously failing to comply with its obligation to remedy identical violations."

Kayla: The U.S. has also ratified treaties banning the use of torture and racial discrimination that may impact our use of the death penalty. These include the International Covenant on Civil and Political Rights, which permits the death penalty "only for the most serious crimes," and the International Convention on the Elimination of all Forms of Racial Discrimination, which upholds the equality under law of everyone, regardless of race or ethnicity.

Anne: Another important area where international opinion on the death penalty can impact the American system is the refusal of extradition by foreign countries of prisoners who may face the death penalty in the United States. In some instances, states and the federal government have agreed to drop the pursuit of the death penalty in exchange for extradition from other countries. In one notable case, Spain refused to extradite eight people suspected of terrorism in the September 11 attacks unless the United States promised not to seek the death penalty against the suspects.

Kayla: Occasionally, international officials petition governors or state authorities in individual U.S. death penalty cases. The recent execution of Troy Davis in Georgia raised issues of due process, innocence, and fairness, and received significant international attention. Catherine Ashton, the European Union's High Representative for Common Foreign and Security Policy,

issued a declaration calling for a commutation of Davis' sentence based on what she called "serious and compelling doubts regarding his culpability".

Anne: International businesses have also impacted the U.S. death penalty. Shortages of lethal injection drugs have forced states to seek new sources for the drugs, prompting international producers to take strong actions. One company, Hospira, Inc., which is based in Illinois, stopped producing an anesthetic used in lethal injections because the drug was being produced at the company's Italian plant, and Italian officials demanded assurances that drugs produced there would not be used in executions. Lundbeck, Inc., the Denmark-based manufacturer of an alternative anesthetic used in executions, has petitioned state Departments of Corrections and governors requesting that their product not be used in executions, and has taken steps to restrict distribution of the drug.

Kayla: International opinion on the death penalty has also been cited in recent U. S. Supreme Court decisions. In *Atkins v. Virginia*, which banned the execution of inmates with intellectual disabilities, the Court noted that, "within the world community, the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved." Similarly, in *Roper v. Simmons*, the Court struck down the death penalty for juvenile offenders, noting, "Our determination that the death penalty is disproportionate punishment for offenders under 18 finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction to the juvenile death penalty." In the same decision, the Court said that, since at least 1958, "the Court has referred to the laws of other countries and to international authorities as instructive for its interpretation of the Eighth Amendment's prohibition of 'cruel and unusual punishments.'"

Anne: You can learn more about the international aspects of death penalty on our website, [deathpenaltyinfo.org](http://deathpenaltyinfo.org). Under the "Issues" tab, select "International" to find lists of abolitionist and retentionist countries, as well as reports and analysis on this issue. For information on laws and executions outside the U. S., visit Northwestern University's database at [deathpenaltyworldwide.org](http://deathpenaltyworldwide.org). Thank you for listening to this edition of the Death Penalty Information Center podcast.