

ARGENTINA'S DEATH PENALTY LAWS

In Argentina, the Constitution of the Argentine Nation (1994) Article 18 states in part: "The penalty of death for political offences, all kinds of torture, and flogging, are forever abolished."

Argentina's liberal reformers used public executions as an antidote to what they saw as a crime wave that began after Rosas's years of repressive rule. According to Salvatore, the "liberals" sought to use capital punishment in a parsimonious fashion for only the most objectionable crimes, and they limited the public exposure of the corpse in an attempt to distinguish themselves from the Rosas regime. Still he emphasizes that during this period of political transition, continuities outpaced penal reform. The state publicly executed mostly men who committed heinous murders with aggravating circumstances.

ARGENTINA'S DEATH PENALTY AND UN POLICIES

The United Nations Human Rights Commission has called on all nations that continue to execute to restrict the number of offenses for which the death penalty may be imposed and to suspend executions with a view toward abolishing the death penalty. Governments around the world are eliminating the death penalty.

1. 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. 2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.
4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.
5. Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial.
6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.
7. 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.
8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.
9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

POSITIVES OF ARGENTINA DEATH POLICY AS OPPOSED TO US

In its unique position as the sole superpower left in the world and a permanent member of the UN Security Council, the U.S. is consistently considered a model for democracy around the world. Yet, although the U.S continues to preach against the human rights violations of other countries, the U.S. actively retain the use of the death penalty. U.S. law does not consider the death penalty a human rights violation, though most countries around the world have now recognized not only its biased application but also its clear violation of the dignity of persons.

Efforts to delegitimize the death penalty began with a General Assembly (GA) resolution in 1977 that affirmed the objective of restricting the number of offenses where the death penalty could be imposed, with a view towards abolition (Kronenwetter, 95). Similarly, in 1984, the GA passed a resolution listing provisions to establish safeguards where capital punishment continued to be carried out, specifically outlawing juvenile death sentencing, which the U.S. continues to practice. Though the U.S. prides itself on being a leading member of the OAS, it has shown clear disregard for the authority of the Inter-American Commission on Human Rights, established in 1960 to hear cases involving members of the OAS. In the 2001 case of *Garza v. United States*, the U.S. executed Juan Raul Garza despite a finding some weeks earlier by the Inter-American Commission that his execution would violate its obligations under the American Declaration. The United States has long since held a prominent position fighting for the recognition of human rights for all people across the globe. However, while the U.S. has been very vocal when it comes to the human rights violations of other countries, it has not been free from violating international human rights law itself. Whether capital punishment should be used as form of punishment, be it for deterrence, retribution, or other reasons, is a source of debate in both abolitionist and retentionist countries alike. The failure of the U.S. to take any significant response to the worldwide concern about the death penalty is likely eroding U.S. prestige and leadership in the field of human rights.

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