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The Effects of Capital Punishment Policies
Practiced by the
United States in International Relations

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Abstract

Capital punishment has been a controversial subject in the United States for a long time. It has been a source of controversy since it's regarded as an inhumane form to euthanasia and comes in conflict with the universal right to life. Many countries in the world are against capital punishment. This act deprives people of their right to life particularly in cases where people are found guilty of committing criminal acts.

Within American society, capital punishment has been applied to those found guilty of committing some of these atrocious acts. Certain segments of societies both within the United States and abroad regard the act of capital punishment as morally wrong and consider it should be abolished. However, other segments of society favor the punishment and regard it as a deterrent for those who are willing to commit those offenses punishable by death. Additionally, the death penalty is favored as a fitting punishment for those found guilty of committing these offenses.

This research paper aims to identify the various issues that surround the issue of capital punishment. The focus of the study will examine the controversy behind the death penalty in the United States. The present research paper will build on the association of the death penalty with international laws and the effects of the penalty on the relations between other countries and the United States. Other factors taken into consideration are the perspectives that affect the punishment both internally and externally, the relationship to extradition and the violation of human rights.

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Chapter I

Introduction

In 1948, the UN General Assembly passed the Universal Declaration of Human Rights (UDHR), which established the international norms regarding capital punishment. The UDHR stated, “Everyone has the right to life, liberty, security of the person” (Art. 3). Furthermore, it stated, “no one shall be subject to torture or to cruel, inhuman, or degrading treatment or punishment” (Art. 5). In 1978, the UN intervention sought to limit offenses where the death penalty can be applied with the intention to abolish the practice among the committee of nations.

Four international treaties speak of the need to abolish the death penalty throughout the world:

- i) The International Covenant on Civil and Political Rights (ICCPR), 1966
- ii) European Convention on Human Rights (ECHR), 1983
- (iii) The Second Optional Protocol (European Convention of Human Rights), 1989
- (iv) The American Convention on Human Rights, 1990

Each of these focuses on abolishing the death penalty as the final objective considering the practice is inhumane and cruel.

The United States has consistently resisted efforts to impose restrictions on its sovereign right to retain the death penalty as a form of punishment. The United States has utilized the death penalty since its founding and has long regarded execution as a reasonable way to administer justice. Although it is a contentious social issue, the majority of Americans have consistently concurred that capital punishment is fair in instances involving murder. This is in stark contrast to the general attitude held by the majority of the international community,

which considers capital punishment to be a human rights issue. The community believes it should be abolished and replaced by punishments such as life in prison. The United States has so far agreed to implement the ICCPR provision of not administering (giving) “cruel, inhuman, or degrading treatment or punishment.”

According to the Death Penalty Information Centre (DPIC), the majority of US citizens favor an alternative to the death penalty, citing the penalty as not being an effective deterrent. According to a report published in Washington D.C., 61% of the respondents interviewed favored other corporal punishments over the death penalty, such as life in prison with no possibility of parole with restitution to the family. Therefore, with many of its own citizens opposed to the death penalty, this puts the US in an uncomfortable position. Their stand was further strengthened by the international community’s stance against the punishment.¹

Capital punishment as a method of penalizing convicted criminals dates back to ancient times when crushing, dismemberment, and burning to death were three of the most common ways to end a convict’s life. Nowadays those sentenced to death face more modern and sophisticated means, including electrocution, poisoning via the gas chamber or the lethal injection. Decapitation, hanging, and death by firing squad have also been used within the last century. The grounds for death penalty vary from country to country, and some American states and many countries in Europe have abolished the death penalty for moral, religious, and even judicial concerns. While the death penalty was globally accepted as commonplace immediately following the most important war in history, the Second World War (WWII), it is now regarded by a majority of countries (around the globe) as an inhumane way to administer justice. This shift in perspective may be attributed to several factors, including social

¹ (Death Penalty Information Centre , 2010)

evolution that has caused growth and change in the structure of society. Globalization has brought about this change with the mass movement of populations and the dynamic demographics as people move away from rural environments and gravitate toward urban centers. This has resulted in the development of new societal values that reject the practice of capital punishment in its various modes. In addition, the focus on human rights in the decades after the Second World War enhanced the decline in the practice of capital punishment throughout the world. This call for the upholding of human rights by the international community and various agencies has led to the realization in many societies that basic human rights, including the right to life and the right to freedom, must be upheld for every man, woman, and child. Efforts to abandon capital punishment are strongly supported by the human rights conventions that advocate for the humane punishment of criminal offenders, such as the use of lethal injection as opposed to mass shooting.

Most countries that choose to continue to use the death penalty practice it without any regard for the national origin of the convicted criminal. That is, the question if these individuals come from a country that implements capital punishment or not is disregarded and the practice is carried out when the verdict is delivered. Those sentenced to death must be found guilty of the offense within the boundaries of the territory of the nation exercising sovereignty. The execution of foreign nationals, however, requires meeting international protocols. Some of those protocols are derived from the Vienna Convention on Consular Relations, ratified in 1963, eighteen years after the Second World War ended. This convention incorporated the consular rights of criminally charged foreigners in its provisions. Non-compliance with these procedures could spark controversy and generate international pressure to conform to the standards established by the international laws.

Research questions

A. Why has the US refused to abolish the death penalty altogether despite international pressure? This question is necessary to ask with the realization that the US is one of the leading countries globally that calls for democracy and the non-violation of human rights in the world.

B. What are the causes of the intransigence shown by US authorities?

C. Has the superpower status of America helped it to overcome international pressure against the death penalty?

D. Why is the large majority of Americans in favor of the death penalty, and how does this affect policy response?

The existing explanations are inadequate because they have refused to recognize the changing political dynamic in which China, the rising superpower, and a host of Muslim nations may actually end up punishing US nationals in the future.

This also has to be contrasted with the increased attempts by the US authorities to punish foreign-born terrorists (citizens of different countries) by death penalty.

Testing Objectives

The study will test the following hypothesis: The US's tactical approach on capital punishment since WWII may have a destabilizing effect on its foreign relations.

International relations are strained, especially during the execution of foreign nationals within the United States, as well as in other countries. Wanting to protect its citizens, the home country of the person sentenced to death appeals for clemency. However, such action

may lead to accusations that the home country is interfering with how the United States is administering justice. Such protests are even more common when the legal traditions of the two nations are sufficiently different as to make the execution seem like an extreme punishment to the accused individual's home country.

In addition, some countries who wish to pressure the US may protest against the execution by announcing travel advisories or canceling planned visits to the United States. For example, after questioning the United States' compliance with the Vienna Convention when several Mexicans were being tried in the United States, Mexican President Vicente Fox canceled a planned state visit with American President George W. Bush. This was to protest the American execution of a Mexican who had not been advised of his consular rights.

In response to one of these incidents involving a Mexican sentenced to death, Victoria Nuland, the spokesperson for the US State Department, stated that Americans needed to be concerned about reciprocity when US citizens are accused of crimes abroad. She affirmed the importance of following the terms of the Vienna Convention. US Secretary of State Hillary Clinton concurred with Nuland, saying that she was disappointed that Texas had proceeded with one of these executions regardless of the argument against it. Later, President Obama also agreed with Clinton and Nuland, and he expressed his concern that US citizens abroad would not have access to their consular rights because of the way these cases had been handled at home. However, political interference in the execution of state laws promotes a clash with the international community.

Structure of the Thesis

I. International Law and the Death Penalty:

This chapter will discuss existing international laws across several countries including the US and their impact on international relations in terms of politics and economy.

II. Contemporary Issues in Capital Punishment Law:

This chapter will provide a contemporary scenario of capital punishment given in the US to persons of foreign origin and US laws will be presented.

III. National Interest, US Diplomacy, and the Death Penalty:

This chapter will discuss how the US views the death penalty given to its citizens abroad and what measures have been taken by US authorities to protect the human rights of its convicted citizens.

IV. The Issue of Extradition:

This will discuss various standoffs between the US and other nations seeking custody of criminals facing the death penalty.

V. Human Rights Issues:

This will examine examples of other nations and domestic cases to understand how public opinion views the capital punishment debate.

VI. Conclusion:

This section will present findings and the effect of capital punishment on international relations.

The methodology used in this research paper will mainly depend on the use of secondary resources obtained from online e-libraries and scholarly literature derived from the internet. These materials will be used to shed light on the objectives that the paper has set out to achieve. Some of the journals used within this research are law journals relevant to the

study of capital punishment. The study will furthermore undertake an analysis aimed at the effects of capital punishment on the United States both internally and externally.

The research will be limited to analyzing the issues that surround the relationships between capital punishment and human rights perspectives, national interest, US diplomacy, extraditions issues and how they affect relationships between countries. Lastly, the study will concern itself with the issues surrounding capital punishment internally as well as externally. Furthermore, it will reveal how this issue affects the American people. In order to present conclusive information, this research paper will undertake an intensive comparative study using case examples of countries that practice capital punishment and how they differ and are similar to the case of the United States.

The research will focus on the United States, while comparing and contrasting the international environment concerning the laws surrounding capital punishment in them. We will study the European Union, Mexico, and Hong Kong. These countries have particular problems with the US regarding this topic.

The possible outcomes that may be derived from this thesis in the future would be that:

- i. Accused criminals who have been sentenced to death may be allowed to have a special court of appeal in cases where cross-country crimes are involved.
- ii. The US government may adopt the European Union's ban on capital punishment.
- iii. Law enforcement agencies may have to adopt a humane approach toward the issue, and lawmakers may have to determine principles applicable for the accused of other nationalities.

Chapter II

International Law and the Death Penalty

As of 2011, twenty-one countries in the world were practicing capital punishment; these countries include Iraq, Iran, China, Saudi Arabia, Yemen, and Somalia, among others. However, these countries have executed far too many people over the years, especially with the advent of different political systems and governments such as communism and dictatorships. China, Iran, Saudi Arabia, and Iraq are examples of places where there was a remarkable upswing in the practice after the Second World War. According to Amnesty International, the United States, Saudi Arabia, Yemen, Somalia, and North Korea were found to have been consistently applying the practice in their judicial systems.² In the first part of the chapter, we will present the capital punishment laws as applied in these five countries. In the second part, the impact of the laws on international relations will be analyzed.

Death penalties in the countries stipulated above are for the most part condoned by the judicial systems in these countries. According to Amnesty International, these countries are among the leading nations that continue to practice capital punishment irrespective of the fact that the majority of countries in the world have abolished it. The reasons for choosing to adopt the policy of capital punishment vary according to the practicing nations. Often the punishment is related to societal or religious pressures or the government in power may sanction the practice.

For many of the countries mentioned above, the reasons could be attributed to religion, especially in the case of Islamic nations such as Yemen, Saudi Arabia and Somalia. These Islamic nations obey strict guidelines mostly associated with their religion, and in most cases, death is supported as being a justifiable punishment for those who break the law. In other countries, however, the situation is different. In China, for example, the death penalty can primarily be associated with the type of government that is in place, which in this case is

²Amnesty International, Singapore

perceived as being largely communist. Therefore, capital punishment can be considered case-specific for the majority of nations practicing it.

The following section will briefly analyze the prevailing status of the death penalties in North Korea, Somalia, Yemen and Saudi Arabia. The purpose for this will be to perform a comparative analysis of the death penalties in use in these countries with that of the United States to better understand the view of the international community in relation to the punishment.

The reasons for choosing these four countries as comparative tools to the United States are a result of the stand of the governments in relation to the death penalty. In North Korea, the leadership governing the country is viewed as a communist dictatorship in which most citizens of the country are denied many of their basic rights such as freedom of expression or the right to media freedom. The reasons for choosing this specific country for the study are the similarities that exist between North Korea and the US in terms of its practice of capital punishment, even though its system of government is radically different from that of the US. The United States is a democratic country while North Korea is a dictatorial nation. The dictatorship status of the government adds a hardline status to the laws, generally proving that the citizens have little say in the way that their laws are made or amended.

The other three countries, Saudi Arabia, Somalia, and Yemen, are Islamic countries that are well known for strongly supporting the death penalty. In these countries, the Islamic laws, also known as *Sharia* laws, dictate the system of government. In addition, considering that they are countries led by Islamic factions of different degrees of extremism, they often deny the basic rights of their citizens, which include media censorship. The media in these countries are controlled and regulated to the point that they only present information that has

been approved by the government. With respect to capital punishment, this is advocated as suitable for those in opposition to the government.

North Korea

Amnesty International ranks North Korea as the third highest-ranking nation in the world that employs the use of capital punishment. In 2010, North Korea executed sixty people.³ North Korea's judicial system operates through a "quasi trial system".⁴ The Criminal Code was amended in 2007 to incorporate "stricter penalties to all general crimes excluding crimes against the state, from indefinite terms of reform through labor to the death penalty, fortifying the legal functions of system stability".⁵

The newspaper reports suggest that the criminal laws are not applied in letter and spirit. Instead, the judicial system allows for interference from the rule of Kim Jong II (now his successor, Kim Jong Eun) and his party. The appeals system does not help to correct the injustices but bridges the gap between the judgment and the party line on a particular legal interpretation that favors the leadership.

The lawyers in North Korea do not help the clients to defend themselves against the state, but they help the state to carry out the trial process within the context of party policies. The State Security System pronounces judgments by taking the party peers and Socialistic Judicial Life Committee on board.⁶ The criminal code provides the death penalty for crimes including murder, terrorism, drug trafficking, robbery, theft, economic offenses, treason,

³Amnesty International, Singapore

⁴Kyu Chang Lee

⁵Kyu Chang Lee

⁶Kyu Chang Lee

espionage, human trafficking, and political offenses, among other crimes.⁷ However, the death penalty is not mandatory in North Korea even for those offenses that fall under the review of the law. Many executions are conducted in public.

According to a US State Department report, “The death penalty is applied in an arbitrary and perfunctory fashion and is largely a tool of oppression used by the executive government”.⁸ North Korea has remained part of UN protocol since 1981. The North Korean Constitution has no reference to the words *capital punishment*. In the context of international relations, “Article 15 asserts that North Korea will champion the ‘rights recognized by international law’ of Koreans abroad, but apart from this statement of foreign policy it does not recognize any rights under international law applicable in the domestic sphere”.⁹ The state provides for clemency through direct intervention by the party’s supreme leader or the Supreme People’s assembly.

In the context of this thesis, North Korea is reportedly negotiating with the US government regarding a pardon for Aijalon Gomes, a US national who has illegally entered North Korea from China, according to the Pyongyang government.

Somalia

The constitution of the transitional government of Somalia provides for capital punishment. The charter states that, “Every person has the right to life, and shall only be deprived of life if convicted in a court of an offense in which the sentence laid down by law is

⁷Death Penalty Worldwide

⁸ Death Penalty Worldwide

⁹Death Penalty Worldwide

death”.¹⁰ The Constitution mentions that the international conventions on human rights will be respected in Somalia.

The Constitution of the Republic agrees to abide by the UN charter and the Universal Declaration of Human Rights. In other parts of Somalia, Puntland and Somaliland, most of the executions are illegitimate. In recent times, the local government has sought to apply *Sharia* (Muslim law), which has harsh and arbitrary provisions. According to the US government, the local militias have set up extra judicial processes to apply capital punishment to their rivals. There is no clemency process in the capital punishment laws applied in the country. Since the government has very little control over the larger part of Somalia, it is difficult to estimate the number of capital punishment convicts. The country is also infamous for punishing children under eighteen using capital punishment. Defendants are not granted legal counsel to protect their rights and interests.

Yemen

Amnesty International reports that Yemen uses capital punishment extensively for various types of crimes. The offenders, including children, are charged under *Sharia* laws and executed in public. The methods of execution include stoning and beheading. In 2012, thirteen executions were reported in this highly religious nation.

Yemen’s criminal justice system applies capital punishment for the offences of, “Murder, drug trafficking, rape, sexual offences and speech or action against Islam”.¹¹ Capital punishment is prescribed in Article 125 of the Constitution as a remedy for various crimes that may be committed and is cited as follows: “Anyone who committed an act with the

¹⁰(Child Rights Information Network 2011)

¹¹World, A.D. 2013

intention of infringing upon the independence of the Republic or its unity or territorial integrity will be punished by Death”.¹²

In the 1990s, with the help of this law, the government picked up more than a hundred foreigners who were later released. However, four foreign nationals were executed in 1998 citing the act.¹³ Capital punishment cases are handled by the security courts and sent for ratification by the President of the Republic of Yemen.

Saudi Arabia

In this country, capital punishment laws are based on Islamic law. The principal problem, as in other Muslim majority states that are mentioned earlier, is that the Saudi Arabian system does not provide adequate safeguards against misuse of death penalty laws. Judges have very little discretion except to deliver sentences verifying the circumstances. “There shall be no crime or penalty except in accordance with *Sharia* or organizational law. There shall be no punishment except for acts committed subsequent to the coming into force of the organizational law”.¹⁴ Saudi Arabia provides for a three-tiered system of justice. The highest court of the judiciary, the Supreme Judicial Council, has been given the power to review capital punishment cases. The system divides crimes into four types: (a) *Hudud* (b) *Qisas* (c) *Tta'zir*

(d) Any other crimes declared by the King.¹⁵

¹² World, A.D. 2013

¹³World, A.D. 2013

¹⁴Peiffer, 2005

¹⁵Peiffer, 2005

In this system, the judiciary operates on the principle of innocent until proven guilty and the accused cannot be given a death sentence if there is an iota of doubt with respect to his or her guilt. In comparison to other Islamic countries where evidence from the accused is not taken into consideration, in Saudi Arabia the accused is given an opportunity to confess their crime, and then the confessions are taken into account during the evaluation of the sentence.¹⁶

The United States

The United States has a history of using the death penalty as a means of enforcing justice, and this heritage influences the way its justice system evaluates the fairness of its laws. The United States has used capital punishment since its origins, and despite a long-standing division of opinion between various groups about whether this punishment constitutes “cruel and unusual” punishment, it is still viewed by the majority as adequate, at least for serious crimes.

The federal government has listed sixty offenses including drug abuse and intentional killing that can lead to capital punishment. In 1994, the federal government added twenty-eight new offenses broadly identified into three areas: “(1) homicide offenses; (2) espionage and treason; and (3) non-homicidal narcotics offenses”.¹⁷

In the US system, the state and the federal governments are free to impose the death penalty within their jurisdictions. There are certain restrictions in respect to the execution of capital punishment given within the domain of the Eighth Amendment. It calls on the courts

¹⁶Peiffer, 2005

¹⁷Procon, 2013

to avoid infringing upon the Eighth Amendment citing, “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted”.¹⁸

In 1977, the Supreme Court held that those accused of rape could not be given capital punishment as the sentence exceeds the criteria set by the Eighth Amendment. Recently, in 2008, the Supreme Court further stated that in cases where someone accused of child rape is alive the judiciary should not impose capital punishment. US laws also give judges liberty to levy capital punishment on a case-by-case basis rather than following past precedents. The Supreme Court has also exempted “juvenile offenders, mentally handicapped and other challenged people”.¹⁹ The states can choose their own method of execution, including the use of lethal injection.

Presently, capital punishment is inapplicable in thirty-four states of the US federation. Sixteen states over time, however, have taken it off their statutes. In 1972, the Supreme Court judgment in the case of *Furman v. Georgia* effectively banned capital punishment in the United States. State governments were forced as a result to amend their laws to restore capital punishment.

Impact of Laws on International Relations in Terms of Politics and Economy

The human rights situation remains a cause for global worry in the case of North Korea. Eddie Jun Yong Su, a US citizen, was detained in North Korea on serious charges. He was a businessman who reportedly carried out missionary work during his visits. The North

¹⁸Constitution, U., 2013

¹⁹Constitution, U., 2013

Korean government objected to his religious affiliation. The US government had stopped food aid to North Korea just a year before the arrest of Eddie in 2010. In 2011, Eddie was released after the US government intervened in the matter; at the time of his release, North Korea publicly regretted the incident. However, the US envoy, Robert King, refused to commit to resumption of food aid in the immediate future.²⁰ North Korea's capital punishment policies have also affected its bilateral relations with Japan. In 2002, North Korea acknowledged that eight Japanese citizens, allegedly involved in spying, had disappeared.²¹

Foreign nationals faced with capital punishment are usually confronted with issues that threaten their right to a fair trial; hence, their right to life is endangered. These individuals may not be familiar with the state laws where they are tried. They may have trouble understanding the charges made against them.²² In some cases, the trials are conducted without the defendant being able to contact their home embassy, family, or others who might undertake defensive activities on their behalf.

According to Professor Russell Murphy, the United States does not always respect international laws or the International Court of Justice's (ICJ) attempts to intervene in state trials involving foreigners. In the case of *Medellin*, a foreigner from Mexico, the president of the United States accepted the judgment of the ICJ, stating that the rights of the individual had been violated due to not advising him or granting him consular rights prior to his conviction and sentencing. Although the president advised Texas to reconsider because it had not adhered to the terms of the Vienna Convention, Texas did not give any credence to

²⁰BBC, 2011

²¹HRW, 2012

²²Amnesty International, "Singapore: The Death Penalty: A Hidden Toll of Executions," *Amnesty International Journal*, www.scribd.com/doc/3939804/Singapore-Death-Penalty-A-hidden-toll-of-executions; Date Accessed: January 20, 2012.

international law and followed through with the capital punishment. From examining this literature on the history of the United States, it is clear that the country routinely does not comply with international protocol and this garners a great deal of negative international attention.²³

Murphy notes that US Justices on occasion have cited international laws when ruling on the legal implications of the US Constitution. For example, the United States Supreme Court Justices have examined the Eighth Amendment to the Constitution in cases where a convicted criminal has spent many years on death row. They have stated that it would constitute “cruel and inhumane” punishment, as described in the Second Protocol of the Geneva Convention of 1949, to follow through after making an individual wait for years in limbo. Thus, the United States does observe and internalize some of what is being discussed internationally with regard to the death penalty and its application within the United States. It also takes into consideration the globally accepted view that the death penalty is inappropriate for juveniles. As Justice Kennedy stated in the case of *Roper vs. Simmons*:

It is proper that we acknowledge the overwhelming weight of international opinion against the juvenile death penalty... the opinion of the world community, while not controlling our outcome, does provide respected and significant confirmation for our own conclusions... It does not lessen our fidelity to the Constitution or our pride in its origins to acknowledge that the express affirmation of certain fundamental rights by other nations and peoples simply underscores the centrality of those same rights within our own heritage of freedom.²⁴

²³Russell Murphy, “Executing the Death Penalty: International Law Influences on United States Supreme Court Decision-making in Capital Punishment Cases,” *Suffolk Transnational Law Review* 32, no. 3 (September, 2009); <http://law-journals-books.vlex.com/vid/executing-penalty-influences-punishment-81731002>; Date Accessed: December 18, 2011.

²⁴Murphy, “Executing the Death Penalty”

Strained international relationships have developed because of these notable cases. An example is the case of Mexico and the capital punishment imposed on the aforementioned civilian from Mexico. Relations with Mexico were affected to the extent that the Mexican government became wary of working with the United States on anti-drug operations. Thus, capital punishment cases create ripple effects that have an impact on relations between countries. Furthermore, as scholar Richard Dieter observed, “The US is constantly in need of international cooperation on such matters as defense, drug enforcement, economics, and human rights. Perhaps in recognition of this need, the State Department has undertaken an information campaign to alert law enforcement officers about their duties under the Vienna Convention”.²⁵

However, economic relations between the US and Mexico continue. As the Federal Research Division of the Library of Congress noted, “In economic terms, good relations with the United States have long been critical for Mexico, given that it’s northern neighbor is its principal trading partner, both for exports and imports. For its part, the United States gives serious consideration to its relations with Mexico because of Mexico’s strategic location on the United States’ southern border, as well as the fact that Mexico has the largest oil deposits in Latin America”.²⁶ These issues ultimately determine that economic relations between the two countries must continue despite the ill-fated negotiations regarding capital punishment incidents.

There has also been controversy about the death penalty imposition in relation to the United States’ northern neighbor, Canada. The accusations against the United States with

²⁵Richard Dieter, “The Death Penalty and Human Rights: US Death Penalty and International Law,” (January 12, 2007); <http://www.deathpenaltyinfo.org/Oxfordpaper.pdf>; Date Accessed: January 20, 2012.

²⁶ Federal Research Division of the Library of Congress, <http://countrystudies.us/mexico/93.html>; Date Accessed: January 20, 2012.

regard to the case of Stanley Faulder were multi-pronged. Faulder, a Canadian, was accused of murder during a robbery in 1975. He was then subjected to the death penalty in 1999 in Texas. Canada claimed that the United States did not even reveal Faulder's imprisonment for fifteen years, so fair representation by Canada could not be achieved. He also obviously did not receive acknowledgement of his consular rights. This was in direct violation of the rules established by the Vienna Convention. According to Canada, the United States' adverse sentiment was expressed as the execution was scheduled on the 50th anniversary of the Worldwide Declaration of Human Rights. In response to this act, Canada joined the International Tourist Boycott of Texas.²⁷

In 2005, during the Bush administration, the United States withdrew from the Optional Protocol to the Vienna Convention on Consular Relations due to pressure from the international community about foreigners who received the death penalty for crimes committed in the United States. In particular, these cases involved a lack of regard for consular rights held by foreign prisoners. In defense of the position of the United States, State Department spokeswoman Darla Jordan stated that, "The International Court of Justice has interpreted the Vienna Consular Convention in ways that we had not anticipated that involved state criminal prosecutions and the death penalty, effectively asking the court to supervise our domestic criminal system".²⁸

This withdrawal reflected the conflict that exists when a state applies its own laws to a case and follows its own protocol but does not work with the International Court of Justice to

²⁷Tracy Lamorie and Dave Parkinson, "Canadian Coalition against the Death Penalty Announces Tourist Boycott of Texas," Press Release issued by The Canadian Coalition against the Death Penalty; <http://www.ccadp.org/pressboycott.htm>; Date Accessed: January 20, 2012.

²⁸ Charles Lane, "The US Quits Pact Used in Capital Cases," *Washington Post* (March 9, 2005); <http://www.washingtonpost.com/wp-dyn/articles/A21981-2005Mar9.html>; Date Accessed: January 20, 2012.

determine the ultimate punishment that would be enforced. In fact, the Criminal Code in the US that allows the death penalty does not address the consular rights of those accused of crimes. Allowing the International Court of Justice to interfere with the states' rights to decide on appropriate punishments within their territories would ultimately change the dynamics of law within the United States, an unintended consequence of having participated in the Vienna Convention.

According to Schabas, the United States responded to international criticism of its denial of consular rights to foreigners by stating that the humanitarian issue being raised by other countries was actually superseded by the more important issue of the humanitarian rights of the victims of violent crimes. Although the United States government did take note of the objections and the rulings of the International Court of Justice, it could not force these rulings on states that were enforcing the capital punishment of foreigners. According to Schabas, Mexico, in particular, complained that the lack of consular rights and the disallowing of legal assistance from Mexico prevented accused parties from receiving proper representation and fair trials.²⁹

There is much debate about whether and to what extent the United States should adhere to international law and conform to the standards set forth by the European Union, which wants to abolish the death penalty worldwide. Many authors take varying stances on the contentious and politicized argument. The debate is an important one because it explores how the dynamics of law enforcement within the United States would change if the International Court of Justice played a more prominent role in the legal system of the country.

²⁹William Schabas, "International Law, the United States of America and Capital Punishment," *Suffolk Transnational Law Review* 31, no. 2 (June, 2008); <http://law-journals-books.vlex.com/vid/international-america-capital-punishment-57047750>; Date Accessed: January 20, 2012.

Acknowledging the consular rights of foreigners is an important issue that has reappeared many times involving more than one country. In fact, the United States has also had strained relations with Germany due to another capital punishment case when access to consular rights was called into question. This pertained to the case of two convicted bank robbers, the LaGrands, who were German nationals. They were sentenced to death and executed in Arizona in 1999. The United States argued that the brothers had been raised in the United States since the age of three and were essentially American in every way. The brothers did not invoke their consular rights until it was late in the trial, once they learned that it was an option. Germany cited the Vienna Convention treaty; however, the United States Supreme Court argued against enforcing it, and the brothers were executed. The German government attempted to intervene on their behalf and turned to the International Court of Justice to hear their arguments. The ICJ ultimately ruled in favor of Germany, and the US was forced to concede that such an oversight would not be repeated in the future.³⁰ This case represented an important point of contention between the United States and Germany; the relationship between the two countries is viewed as essential, given the prominent position that Germany holds within the European Union. It also represents an important economic relationship that should be protected from such strains as those introduced by the LaGrands' case.

Germany's stance against the death penalty was put under pressure in another interaction with the United States when the United States tried those who were suspected of being responsible for the attacks on the United States during 9/11. The trials depended on evidence supplied by Germany on behalf of the United States as it built its case against the suspects. Due to Germany's stance against the death penalty, the country was reluctant to

³⁰ Frederick Kirgis, "World Court Rules against the United States in LaGrand Case Arising from a Violation of the Vienna Convention on Consular Relations," *American Society of International Law. Insights*11 (2001), <http://www.asil.org/insigh75.cfm>; Date Accessed: January 20, 2012.

provide the needed evidence, knowing that the President of the United States was pursuing the death penalty. Journalists Goetz and Rosenbauch note that, “This presents the German government with a dilemma. Berlin can either oppose the use of German evidence in a bid to protect the defendants from execution—and risk alienating a NATO ally in the process—or it can approve the use of the incriminating documents, which would contravene Germany’s position on the death penalty”.³¹ In fact, Germany supplied the evidence only after being assured that it would not be used to pursue the death penalty. To ensure that their interests were respected, the German government planned to send observers to the trial in the United States.³²

A decade after the crimes were committed, the trials are not yet completed. Due to political pressure from Republicans, the United States is now considering a military tribunal, and the punishment that will be sought has not yet been determined. It has yet to be seen how it will impact relations between the two countries if the United States reneges on its promise since Germany has already cooperated and been reassured that the death penalty will not be pursued.³³

As recently as June 2011, the United States was in short supply of a critical drug, thiopental, which is used in the implementation of the death penalty. Gary Locke, Commerce Secretary, asked Germany if it would sell this drug to them. German Vice Chancellor Philip

³¹John Goetz and Marcel Rosenbauch, “The Death Penalty Problem: 9/11 Trial Puts German-US Relations Under Strain,” *Spiegel Online International*, (November 23, 2009); <http://www.spiegel.de/international/world/0,1518,662814,00.html>; Date Accessed: January 20, 2012.

³² Adam Nichols, “Germans Weasel In on 9/11 Trials,” *New York Post* (November 22, 2009); http://www.nypost.com/p/news/international/germans_weasel_in_on_trial_pogG29ROLzHomP3ehgkHpO; Date Accessed: January 20, 2012.

³³ Lucile Malandain, “New Charges Bring Guantanamo 9/11 Trial Closer,” *Sydney Morning Herald* (June 1, 2011); <http://news.smh.com.au/breaking-news-world/new-charges-bring-guantanamo-911-trial-closer-20110601-1ff4u.html>; Date Accessed: January 12, 2012.

Rösler, who generally seeks amiable relations with other countries, declined the request due to Germany's stance on the death penalty. He ordered all pharmaceutical companies to refrain from sending the drug to the United States. England soon followed suit and banned the sale of the drug to the United States.³⁴ Despite these significant signs of protest, the United States has not made any changes to the way in which it administers justice. As of 2011, capital punishment was still viable in thirty-four states. The death penalty continues to be viewed as a justifiable way to administer justice.

The United States government's position--that the United States Constitution is held as the highest authority in determining the fate of a convicted criminal, whether that individual is a citizen or not—was first affirmed in a case involving a Paraguayan citizen, Angel Breard. He was sentenced to death in the United States in 1998 for the attempted rape and capital murder of a teenager in Virginia. This was the first case that established the precedent that domestic law is superior to foreign law. The impact of this incident on international relations is not clear. The demands made by the government of Paraguay regarding this particular case were denied by the United States, which pursued the death penalty in accordance with its laws.³⁵

The extent to which other countries trust the United States and push the country to accept the international protocols that prohibit the death penalty is highlighted by cases in which accused foreigners must be extradited to the United States when they are discovered abroad after having committed an offense in the United States. A case of this type was cited by Schabas, which involved an Englishman named Soering who helped kill his girlfriend's

³⁴Spiegel Online International, "German Minister Denies Request for Execution Drugs," (June 9, 2011); <http://www.spiegel.de/international/world/0,1518,767613,00.html>; Date Accessed: January 20, 2012.

³⁵"Breard vs. Greene," <http://avalon.law.yale.edu/diana/42498-1.asp>; Date Accessed: October 15, 2012.

parents in Virginia. The foreigner fled to Europe, where he remained on the run for a period before being apprehended in England. England agreed to extradite Soering to the United States only after being assured that the death penalty would not be sought. Instead, he faced a sentence of life in prison. This showed that the United States does at times consider the impact of its actions on international relationships and will make promises to adhere to international laws when the issue is forced. In fact, many countries, including England, France, Canada, Mexico, Italy, the Dominican Republic, and Germany, resist extraditing those accused of crimes to the United States until and unless the United States promises not to pursue the death penalty.³⁶ However, the long-term impact of using capital punishment on foreigners, specifically with regard to the ability of the US to maintain economic ties with other countries, has not yet been studied.³⁷

From the cited cases, it can be asserted that international diplomatic relations between countries are negatively affected by the capital punishment of foreigners. For instance, in one law review article cited by the Death Penalty Information Centre that examines the death penalty's effects on United States' foreign relations, the author concludes that the maintenance of capital punishment in the United States distances the country from its closest allies. It does this in ways described as both symbolic and tangible, and the costs of that isolation are rising steadily.³⁸ In contrast, the author does not provide concrete evidence to support it. International law, which condemns capital punishment, has influence on cases that

³⁶Death Penalty Information Center, "Amnesty International: The Death Penalty's Impact on US Foreign Relations," August 24, 2011; <http://www.deathpenaltyinfo.org/node/500>; Date Accessed: January 20, 2012.

³⁷William A. Schabas, "International law, the United States of America and Capital Punishment," *Suffolk Transnational Law Review* 31 (2008); <https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=31+Suffolk+Transnat%27I+L.+Rev.+377&srctype=smi&srcid=3B15&key=b27e47ce9973f3dfaa6cbc11b603f341>; Date Accessed: January 20, 2012.

³⁸Death Penalty Information Center, "Amnesty International: The Death Penalty's Impact on US Foreign Relations," (2011); <http://www.deathpenaltyinfo.org/node/500>; Date Accessed: January 20, 2012.

are brought to the US Supreme Court, which shows that international relations are viewed as relevant in the country's handling of death penalty cases, at least at the top judicial level.³⁹

Despite this fact, 98% of death penalty cases are tried at the state level, never gaining the United States Supreme Court's attention

Chapter III

The Contemporary Scenario in Capital Punishment Law

The previous chapter performed a comparative analysis of capital punishment from the perspective and approach of different countries.. The following chapter will perform a study that is primarily based on the United States with the intention of introducing the different scenarios that surround the practice of capital punishment.

According to the DPIC, there are 143 persons of foreign nationality belonging to 137 countries charged under the provisions of Capital Punishment Laws in the US (DPIC, 2013). The three states that have the largest number of foreign inmates on death row are California, Texas, and Florida. In the American federal system, the states are free to establish their own capital punishment laws, and their implementation is purely a state matter. In most of these cases a London-based NGO, Reprieve, reports that the state and the federal governments have not allowed consular access to 95% of the accused who have been issued death sentences (DPIC, 2013). The Vienna Convention on Consular Relations (VCCR), of which the US is a signatory, requires that the host nation allow foreign nationals to meet their representatives in such cases. The treaty gives the foreign national rights while they are abroad. Reprieve points out that US criminal justice is a complex system and many foreign nationals, many of whom

³⁹ Murphy, "Executing the Death Penalty"

do not speak English, fail to understand it, putting them at a major legal disadvantage. They cannot easily absolve themselves from charges due to their inability to communicate in English and their inability to deal with cultural barriers. According to Stevenson, foreign nationals are some of the most vulnerable offenders in the US criminal justice system (Bedau, 2005). In his essay, he narrates instances of impoverished American citizens failing to obtain adequate legal representation. In addition, racial discrimination is rampant in the execution of justice in many states. The US government data suggest that racial biases are growing in the US judiciary. A majority of the twenty-seven out of the thirty-seven states in the US that continue to apply death sentences have been found to have racial biases because their victims were white (Bedau, 2005).

The US position on capital punishment makes it a pariah of sorts in the committee of nations. *“It’s a running dispute with the closest of friends and neighbors”*.⁴⁰ The US ambassador's report reflects that the people in Germany, France, and many other countries oppose the US government because of the presence of its death penalty, the matter becomes an international dispute when the US seeks extradition of criminals charged in nations where the death penalty has been abolished. In 2001, the US government asked for the extradition of two Canadians for a murder that took place in Washington State. The Supreme Court of Canada refused to oblige the US government’s request and asked them to provide constitutional assurances of not applying capital punishment.⁴¹

In the case of the LaGrand brothers, who were German citizens, the US hanged them without informing the German government in 1999. Germany and other nations perceived

⁴⁰ Kronenwetter, 2001, p. 102

⁴¹ Kronenwetter, 2001, p. 102

these acts as clear violations of established international obligations. The German government went to the extent of announcing its intentions of approaching the International Court of Justice against this violation.⁴²

According to the International Justice Project in 2002, 121 foreign nationals were awaiting capital punishment in various US states..⁴³ The story of a Mexican national named Javez Suarez Medina illustrates the contemporary scenario in the US. . The IJP points out that, “Medina's case raises questions about the fairness of his trial, which was conducted contrary to the Vienna Convention on Consular Relations, a treaty ratified by the US government on November 24, 1969; this is brought about by the ongoing refusal of Texas authorities to respect their binding international treaty obligations”.⁴⁴ After failing to get a pardon from the various authorities in the US for more than thirteen years, Medina was hanged on August 14, 2002. He was charged with killing an undercover police officer in 1988. The media reports suggest that the evidence was doubtful and that there were many factual inaccuracies in the testimonies of witnesses. Hence, the sentencing purely depended on proving that Medina posed a danger to society in the future. In this case, the Texas authorities refused to recognize well-laid principles followed across the United States. It is necessary to point out that the principle in handing down capital punishment demands that the allegations have to be substantially proved and there should not be room for doubt. In this instance, the Texan courts refused to hear the clemency plea and violated international law. However, the US is a member of the Organization of American States, which believes in the

⁴² Kronenwetter, 2001, p. 102

⁴³ IJP, 2002

⁴⁴ IJP, 2002

protection of human rights and requires the government to abide by “the American Declaration on the Rights and Duties of Man”.⁴⁵

The agreement among the OAS members obliges the participating governments, including the United States, not to sentence foreign nationals without undeniable evidence. In many such cases, foreign nationals in the OAS have found that the US has blatantly violated the principles of the right to a fair trial.

The United States, signatory to the International Covenant on Civil and Political Rights (ICCPR), demands that the following sections of the covenant be followed by the courts and the state governments. Article 14 of Section I states, “All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law”.⁴⁶ Following the article, the US government is expected to provide the following services to foreign nationals to ensure a fair trial:

- i) The government will help the foreign national if they have a problem with the language including the services of an interpreter;
- ii) They have to provide him or her with legal aid and other services that he or she may demand during the course of the trial;
- iii) There should not be any delay in the conduct of the trial; the authorities may not compel the accused to make any submissions.⁴⁷

⁴⁵ IJP, 2002

⁴⁶ IJP, 2002

⁴⁷ IJP, 2002

California, Texas, and Florida are three of the states where capital punishment is practiced resolutely. Countries in Latin American and in Europe whose nationals are on death row constantly petition the US government to show mercy in such cases.

The US's refusal to allow consular access to the accused is explained in the ICJ, 2002. "Sometimes that occurs because the arrested, who may not be in the country legally, do not want to call attention to that fact. Often, however, local officials are unaware, unconcerned or overworked and fail to make the effort".⁴⁸

The current state of affairs across the United States goes to suggest that US authorities are not interested in paying attention to the issue. While the federal government pushes the matter to the state government, the local authorities blame the courts. In the process, the victims are foreign nationals who may simply be caught in a morass, where the foreign nation's entire judicial system may be aligned against him or her.

Chapter IV

National Interest, US Diplomacy and the Death Penalty

Thus far I have illustrated the various scenarios in which the US and its constituent states address the issue of capital punishment. In this chapter an analysis will examine how the United States is affected by its own policy on capital punishment when faced with the issue of diplomatic relations with other countries. It will illustrate how the death penalty plays a part in its foreign relations and how the US sometimes contradicts itself when faced with similar situations.

After the Berlin Wall collapsed in 1991, which ended the Cold War and resulted in the disintegration of the USSR, it took a while for the international community to adjust to the

⁴⁸ IJP, 2002

new multi-polar world under the weakened leadership of the US. In the early 1990s, a global economic recession was followed by heightened Al-Qaeda threats leading to the 9/11 terrorist attacks on the twin towers in New York. This last event in particular underlined the vulnerability of the sole superpower, the United States. Meanwhile, in China, the Tiananmen Square massacre of 1989 tested the patience of Chinese political leadership and they vowed to oppose the capitalist world, which advanced the principles of democracy and free economy. Deng Xiaoping gave new meaning to Chinese economic reforms, which in the last twenty years have catapulted the sleeping Eastern giant into a major world power that now increasingly challenges the status quo of international politics so far dominated by Europe and America.

The political conditions required for a new Cold War are not hard to find in the multi-polar world. “Today, economically wounded though it is, the United States nonetheless remains the world’s most powerful state when power is measured in terms of economic and military assets.” Though America is economically weakened, its status as the sole superpower continues to inspire the multilateral institutions that determine the fate of international politics. The communist ideology may have been successfully defeated by the US and its allies; however, the idea of democracy seems to be the next item on the agenda of the free world. During the first Cold War, the divisions between the nations were much broader considering many nations were still young, as they were recently emerging from the yoke of colonialism. Authoritarianism was an anathema to most of them, so many aligned with the USSR, just to keep themselves away from colonial Europe. However, the fall of the Berlin Wall in 1990 changed the global map and highlighted the importance of democracy. It also demonstrated the inability of a socialist state to deliver on the promises made by communist leaders. It changed communist China, which began the process of economic reforms to secure

its political future. America began focusing its energy on the Middle East and other conflict areas in Asia, Africa and Latin America.

“In the past two decades, the relationship between natural resources and conflict risk has re-emerged as a key issue in international security”.⁴⁹ The interplay of these two factors can increasingly be seen in different parts of the world. Over the last twenty years, the US has intervened in the Middle East, many experts argue, to secure oil for its people. According to a secret US document from this period, “President Bush's Cabinet agreed in April 2001 that 'Iraq remains a destabilizing influence to the flow of oil to international markets from the Middle East' and because this is an unacceptable risk to the US 'military intervention' is necessary”.⁵⁰ The news reports also suggested that many US and western countries benefited from the war, further strengthening the relationship between natural resources and conflict. Interestingly, this was the period when the US had virtually no strategic competitor in the world. “In 2010, fifteen major armed conflicts were active in fifteen locations around the world”.⁵¹ The chances of any of these conflicts worsening can never be ruled out as many have been ongoing for the last several years. “Conflict erupts for a variety of interrelated reasons, but it can be perpetuated by greed when a state is weak and unable to protect its porous borders from state and non-state armed combatants”.⁵² The nations that support such

⁴⁹KONING, NEIL MELVIN AND RUBEN DE. Chapter 2. Resources and armed conflict. 2012.

⁵⁰Herald, Sunday. " "Official: US oil at the heart of Iraq crisis". " Sunday Herald 6 October 2002: p.1.

⁵¹SIPRI. Appendix 2A. Patterns of major armed conflicts, 2001–10. Research . Stockholm : SIPRI, 2001-10.

⁵²Ndinga-Muvumba, Angela. "Natural Resources, the Environment and Conflict ." ACCORD-EU Project (2009): 4-47.

conflicts are invariably those who have regional and international ambitions. Increasingly in this big power game, China is taking positions to emphasize its legitimate role. According to the Chinese foreign ministry spokesperson, "China is calling for the establishment of a new world order that will ensure a long-term and peaceful international environment." She further said, "More than two-hundred countries and six billion people cannot be at the mercy of one country and the group".⁵³ This argument clearly states China's desire to become an important player in the multi-polar world.

In the midst of China's efforts to take up international leadership, the US has been quietly creating strategic partnerships and alliances across the world to contain the growing influence of China. Although the military capacity of the US remains unchallenged, nuclear weapons have given strategic power to many nations that are important players in the second Cold War game. Possession of the South China Sea, which the Chinese have been claiming as their exclusive backyard, is now increasingly being challenged by the US and its allies. Last July, the US conducted military exercises in the Sea of Japan to warn China of any military interventions in the region. "China is protesting because they now feel powerful enough to do so. They feel more mature as a superpower, ready to manage the world, certainly the seas off their own coastline," said Han Suk-hee, an expert of Chinese-North Korean relations at the Graduate School of International Studies at Yonsei University in Seoul.⁵⁴

⁵³Usa, Ibp. China Foreign Policy and Government Guide. USA: USA International Business Publications, 2007.

⁵⁴Glionna, Barbara Demick and John M. "U.S.-South Korea war games raise China's hackles." Los Angeles Times 28 July 2010.

In recent years, policy makers are divided about the manner in which foreign nationals should be treated by US authorities. In 2009, the handling of Omar Farouk Abdulmutallab, a Nigerian terrorist, by the Obama administration as an accused criminal involved in a Christmas day bombing raised many constitutional issues. The US constitution allows the government to interrogate and prosecute a person in its custody and to presume him to be innocent until proven guilty. The law provides that, even if a person is a terrorist, the due process of law must be followed. Laws of war cannot be applied to a terror suspect like Abdulmutallab although he was caught in the United States.

The US criminal justice system is good enough to deal with terror suspects. The media reports suggest that after the 9/11 attacks, all those who were arrested by the Bush administration were given the protection of criminal law, which includes convictions and sentences as mandated by the law. Although two other suspects, Jose Padilla and Ali al-Marri were detained as "enemy combatants and sought to be treated differently, even they were later treated within the system established by US law".⁵⁵ There are instances where those who have been captured on alien territory have been tortured and mistreated while in different parts of the world by US forces. In this case, keeping Abdulmutallab within due process has helped the US to gain valuable insight and intelligence into terror networks. The conclusion is that federal courts can conduct terror trials and bring the guilty to justice. More than a hundred prosecutions have taken place in federal courts.

At the same time, military commissions have failed to deliver justice to the guilty. They have been involved in many legal wrangles. There have been only three convictions from the military courts. This has proven that the US government must take proactive

⁵⁵Romero, 2010

measures to defend American values instead of promoting jingoism in the name of safeguarding a nation. In this instance, the rule of law prevailed above the muscular foreign policy of the United States.

Every foreign national convicted of a crime has a right to due process and to be presumed innocent until proven guilty. This is with the assistance of an established criminal law procedure vetted by the US Constitution. The due legal process provides a window of opportunity for the prosecution to unravel many of the hidden mysteries that are part of any crime. Thus, by giving Abdulmutallab a free and fair trial, he has proved to be a useful source in intelligence gathering and foiling many of the other crimes or terrorist acts that could have happened on American soil. The war on terror can never be won by conducting summary trials through military courts. Although due process may not be considered patriotic, it does uphold American traditions and the eternal values of the Founding Fathers of the union.

Chapter V

Extradition

The previous chapters focused on how international relations between nations, specifically the United States and other nations, are affected by the death penalty. This chapter will focus on the US and its existent extradition laws, as well as addressing how the death penalty in the US influences extradition.

Capital punishment and extradition are closely connected practices that prevail in the justice system of the US. Relations between governments are normally strained when it comes to extradition issues and the punishments imposed on the foreign country's citizens. This is especially true when the death penalty is introduced. For instance, if trade relations of government A and that of government B are good, and a citizen from country B residing in A

is found guilty of a drug-related crime, the resolution would have to be approved by the international community. The international community advocates for extraditing the individual back to B, where they would be imprisoned. However, if the situation in A is that the individual is imprisoned without informing B, then the relations between the two countries would be strained. The consequence would be that B would restrict trade to A, which would in return affect both countries.

Extradition is defined as the process where one country transfers a suspect or convicted criminal to another country. This process is regulated by treaties that are signed by the two countries in question. Extradition is always dependent on the laws and practices of the state in which the suspects or convicted criminals are found. The purpose of extradition is mainly to ensure that the convict or suspect completes his/her sentence back in the country that they are extradited to in order to stand trial for crimes committed. There is the requirement among the countries that an equitable punishment must be carried out in the countries receiving the accused. . However, in many situations, the country that extradites the individuals imposes conditions on the extradition thus ensuring that the full sentence that will be carried out. This results in very strained international relations, as the receiving country may disregard the wishes of the country that has extradited the accused. .

The extradition of persons to foreign countries has been an issue that has plagued many governments. This involves the deportation of individuals who are in a foreign land back to their countries of origin. For foreigners who are charged with crimes performed within either the visiting country or back in their domestic countries, the country in which they are residing is tasked with the duty of extraditing them back to their countries of origin.

Many people, however, taking the United States as an example, have traveled to the visiting country without passports.

In the United States, it is common along the Mexican border for people from South America to smuggle people into the country. However, the situation for many changes once they are unable to realize their expectation and instead may turn to lives of crime. Some of the most common crimes that these people commit are robbery, prostitution, and racketeering. Some, especially among the young, join gangs where they fall into a life of crime.

Extradition in the United States comes into play when the government is reluctant to fill their prison facilities or when the criminals residing there are citizens of other countries. The challenge of this situation is that their countries of origin may fail to take responsibility for their citizens and leave the US with the hard task of finding alternative means of managing the issue. Capital punishment is supported by conservative citizens of the United States although it is considered an inhumane act. At times, however, the situation is difficult. To place foreign criminals in correctional facilities where the criminals would be housed using money from taxpaying citizens is a controversial subject..

Extradition issues therefore need to be addressed and sorted out, and each country should be made to answer for its citizens and ensure that the correct procedures are followed when it comes to taking care of the deported. The United Nations has laid out procedures and regulations that could be followed when it comes to handling certain cases, for example those regarding human trafficking and extradition measures.

According to Skinner, despite increasing demands for technical support, victim services, and police training, the national budget to combat human trafficking—which, under

Bush, averaged less than one percent of the national budget to combat drug trafficking—remained constant during the last three years of the administration. Most of the developed countries in the world, many of which are destinations for human trafficking, have made a mockery of the UN-mandated conventions and protocols.⁵⁶ They have done this by not extraditing those wanted to answer for crimes that they have committed in the United States. They have resisted efforts to extradite the criminals by failing to allow the rule of law in the US to take place. This has been done by imposing regulations and demands upon the US to follow in the event that they are to extradite these criminals.

The United States has a history of using the death penalty as a means for enforcing justice, and this heritage colors the lens through which its justice system views the fairness of its laws. In addition, the supervised implementation of domestic laws by a foreign body representing international law is inherently problematic for the United States. This is specifically due to its constitution, which dictates how laws are enforced. Despite these challenges, it is crucial that the United States heed the overwhelming majority of international sentiment and pressure regarding the use of the death penalty.

The international conflict over these issues does negatively influence the relations between countries although that impact may be subtle and does not appear to translate directly into economic losses. The cost to the United States of its insistence on upholding the death penalty can be studied with regard to how willing other countries are to threaten a healthy economic relationship with the US in the name of fairness and justice. However, economic data in this case is scarce and will therefore not be discussed in this study. What can be studied is the level of cooperation that other countries exhibit in working with the United

⁵⁶ Skinner, 2009

States on important global issues. For example, Mexico's reluctance to work with the United States on anti-drug and security issues can be cited in the thesis as well as Canada's position against the use of the death penalty and its potential impact on security issues. Furthermore, other evidence can be extracted from literature that indicates that there is a backlash against the United States from the international community. For example, as the Death Penalty Information Centre noted, "The world community has recently gone ahead without the US on such important matters as the treaty to ban landmines and the establishment of the International Court of Criminal Justice even though the US had worked extensively on those endeavors".

Islamic countries and semi-democratic countries seem to be obvious targets in the call for the humane treatment of citizens in their respective countries. Globalization is the main harbinger of the process. There was a time when globalization was a boon for the developing countries; however, now it seems to be a powerful instrument in the hands of a US-led Western alliance. They use this to fight their enemies culturally and socially with what the West considers obsolete ideology. In the range of attack, we find China, Russia and the Middle East, all of which have resisted Western-style democracy and free economy. "As demonstrated by the reactions to awarding Liu Xiaobo the Nobel Peace Prize, when it comes to political reforms, China has shown no intention to compromise with the West and to accept the Western value of democracy".⁵⁷

⁵⁷Zarathurashtra. Second Cold War. 11 October 2010.

The fact that China's rise worries the US is well known; however, what disturbs analysts is that, "The Chinese ascendancy is based on commerce and diplomacy".⁵⁸ At the same time, the US itself is a financially insolvent country and it has fewer allies than it had during the first Cold War. This is as evidenced in Wallerstein, 2011, "...In November and the first part of December alone the White House 'has had confrontations with China, Pakistan, Saudi Arabia, Israel, Germany and Latin America...'"⁵⁹

Nevertheless, conditions are ripe for the US to launch into a McCarthy-style propaganda war against its enemies with the help of social media sites to get a strategic advantage in the second Cold War. Such an attempt was made by the US and its Western supporters during the Tiananmen Square uprising in China in 1989. However, China came down heavily on the dissidents and troops were called in to control the pro-democracy forces. The defeat of the US in this pro-democracy war, however, now seems to be amply compensated for by its more cautious approach in the Tahrir Square upsurge against Muslim rulers, which is also known as the Arab Spring. Many countries in the Middle East seem to be in the throes of political crisis and the experts argue that encouraging democratic sentiments in Islamic countries and in Africa helps the cause of the US. The argument being that if China has to be hurt in some way, it should be done by stopping their oil supply, the lifeline of China's astounding economic growth. The disruption in oil supplies would force the Chinese to compromise in terms of freedom and democracy and would encourage them to agree to the terms of engagement set forth by the United States.

⁵⁸Zibechi, Raúl. The Second Cold War and South America: New Strategic Directions on the Part of the United States.

⁵⁹Wallerstein, Immanuel. "Allies and US ." La Jornada 18 December 2011

The division of the world into two neat halves, with one supporting China and the other supporting the US, remains wrapped in ideological uncertainty. Another consideration is that most of the multilateral bodies are under the control of the US and its allies; friends of China are cautious and waiting. However, China is attempting to place itself in every strategic corner of the world, readying itself to confront the US. "In many Latin American countries, the PRC has gone from having an almost negligible economic presence to replacing the United States as the number one or number two trading partner".⁶⁰ The aim of these trade engagements is for China to increase its military presence in Central and South America, as evidenced in Haiti in September 2004. Dr. Ellis writes that, "In three Soviet-era monitoring facilities, Lourdes, Bejucal, and Santiago de Cuba, the Chinese military physically exists in Latin America".⁶¹ There exists no credible information about Chinese intentions to expand its military presence in the area, but experts point out that China has multiple foreign policy objectives:

- i) Securing access to reliable sources of primary products
- ii) Ensuring the food and material security of the Chinese people
- iii) Getting a foothold in new markets for its manufactured goods
- iv) Getting access to new information technology

⁶⁰ Ellis, R. Evan. "China-latin america military engagement: good will, good business, and strategic position." STRATEGIC STUDIES INSTITUTE (2011): p.4..

⁶¹Ellis, R. Evan. "China-Latin America military engagement: good will, good business, and strategic position." STRATEGIC STUDIES INSTITUTE (2011): p.4..

- v) Positioning itself as the world's leading economic country
- vi) Taking steps to prevent any anti-China international coalition from coming together in the world.⁶²

These actions in the region are forcing the US to take preemptive steps to protect its national interest. Political analysts in the US argue that the administration should follow the tenets of the Monroe doctrine. It states:

“We must ever maintain the principle that the people of this continent alone have the right to decide their own destiny. Should any portion of them, constituting an independent state, propose to unite themselves with our Confederacy, this will be a question for them and us (the United States) to determine without any foreign interposition. The American continents, by the free and independent condition that they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers”.⁶³

The inevitability of Cold War becomes evident from the postures taken by two nations, namely China and the US, to peddle their individual influence in poorer countries that are rich in resources. This way they can establish their pre-eminence in the developing military blocs, which eventually create a psychological advantage against their perceived enemies.

Chinese efforts to gain footholds in Africa, Latin America, Asia-Pacific, Eastern Europe, and the Middle East may result in the ideological polarization of the world into pro-US and anti-US forces. The US will have to respond to such maneuvers to re-establish its strategic depth in nuclear and conventional warfare. The major consequence of a second Cold

⁶²Ellis, R. Evan. "China-Latin America military engagement: good will, good business, and strategic position." STRATEGIC STUDIES INSTITUTE (2011): p.4..

⁶³Monroe, James. THE MONROE DOCTRINE. 2 December 1823.

War, as was the case with the first, was that more money was spent on conventional and nuclear weapons. “We expect that the total defense budget will be revised to about 240 billion US dollars by 2015, which exceeds the defense spending of all the other Asia-Pacific countries put together,” says Rajiv Biswas, Chief Economist for Asia Pacific with IHS Global Insight.⁶⁴ At the same time, though the US may be reeling from the economic recession particularly as it continues to adopt newer means to spruce up its military act. “The \$3.4 billion in cyber security is part of an overall \$37 billion in computer-related spending proposed for 2013”.⁶⁵ The contours of war are likely to change in the second Cold War because of changed circumstances in which information will play a significant role in determining the outcome. One of the stated objectives of the US State Department is that the US need not engage with governments alone but directly with the people. The implication of this is that transparency will be maintained to involve the world’s population in meaningful debates on the issues of a new Cold War.

The other players in this game are approaching the second Cold War with a sense of unease and fear. Germany, a leading EU nation that has greatly benefited from China, finds itself caught in a dilemma. On the one hand, Chinese importation of their goods has helped Germany to shore up its growth rate despite the global financial crisis. On the other hand, as Thomas Heberer, Professor of Political Science and East Asian Studies at the University of Duisburg-Essen, says, “There is a strong wish of the German side to sharpen China's

⁶⁴Cochrane, Liam. [China's defence spending set to equal Asia's combined](#). 15 February 2012. 19 February 2012

⁶⁵Press, Associated. "Defense spending on cyber, special operations stays steady as US seeks savings in tough year." [The Washington Post](#) 18 February 2012: 1.

awareness in terms of global responsibility and to collaborate with China in finding sustainable solutions for pressing questions of our time”.⁶⁶

Most allies of China feel this trust deficit unlike the confidence they feel about the US. NATO has survived mainly because of the concept of shared responsibilities, through which the US allows its allies to collaborate on its responses to international issues. The Chinese approach perpetuates the Asian myth and helps to consolidate factors that may lead to a Cold War. During the first Cold War, the Russian Iron Curtain—an information blackout on the major issues—helped the opposition, the US, to spread disinformation. In the case of China, a communist nation, the secrecy that guides how the People’s Republic of China’s leadership operates could force the world into a Cold War. The Chinese fear of the internet as a Western medium to destabilize its policy will also contribute in heralding a second Cold War. In short, the Cold War might come not because of the Cuban Missile Crisis, as was the case with the first Cold War, but because of a lack of communication among enemies. The Cold War will begin to unsettle countries economically through information dissemination, which will eventually decide the fate of a multi-polar world

Chapter VI

Violation of Human Rights

The previous chapter briefly pointed out how extradition is able to influence the relationships that exist between nations, particularly the United States and other global nations in the context of a potential Cold War. It additionally highlighted how capital punishment

⁶⁶Mo, Han. "China-Germany relations warm in 2010: experts." People's Daily 7 January 2012: p.1.

plays a role in the formulation of relationships between nations. In the following chapter, the focus will shift towards violation of the basic human rights particularly by the United States. The chapter will perform an analysis revealing how the government violates these human rights for the intent of promoting the death penalty by using fear as a catalyst to support the practice.

Over time, the issue of capital punishment has become hostage to terrorism. Many nations under the guise of the war on terror have increasingly used capital punishment as a way to arrest foreign nationals on one pretext or the other. In the process, these countries have been violating human rights and have refused to share information about the arrests of foreign nationals. Both of these actions violate the Vienna Consular access provisions as well as provisions of human rights.

The use of torture to solicit information from foreigners and political prisoners is a historic phenomenon. In the conduct of international relations, these countries practicing the death penalty have invariably used it to protect their national interests and their citizens. However, the use of terror as a means to overcome the menace of terrorism has changed the way torture began to be used in the last decade of the 20th century. Firstly, for a long time during the Cold War, the threat of political violence was restricted to those satellite nations that were part of the two ideological blocs, namely the Warsaw Pact and the NATO Alliance. During that period, international relations viewed terror as a tool for obtaining information as an espionage activity. Many believe that modern terrorism began with the attack on the Israeli athletes during the 1972 Munich Olympics.⁶⁷ In the 1990s, after the fall of the Berlin Wall and the end of hostilities between two superpowers, specifically Russia and the US, the ethnic clashes that broke out among the Eastern European nations were a starting point for the

⁶⁷James Lutz, 2008, p.3

nations using the instrument of violence to contain nationalistic urges. Then events of September 11, 2001 occurred, the most devastating terrorist attacks on US soil. The attacks that targeted the World Trade Center in New York and the Pentagon in Virginia altered the political scenario forever. It induced the coining of two new terms, *terrorist* and *terrorism*. Categories of people called terrorists were identified and the violence perpetuated by them was labeled terrorism. Terrorism has been defined as senseless, illegitimate and detestable violence against innocents.⁶⁸ The victimized nations that face the brunt of illegitimate attacks on their subjects want to identify the terrorists and their accomplices, whom they consider to be their targets. The moral dimension of war demands that the targets and states held responsible for terrorism be accurate and certain. In the real world, the use of terror to gather information and to secure one's own citizens during peacetime goes beyond the domains of law enforcement and into military operations. Post 9/11, President Bush declared a global campaign on the war on terror. He called upon the international community to support him in his campaign that targeted militant Islamists, including al-Qaeda and Taliban terrorists. According to US strategic thinking, the war on terror was a battle to be fought in all public spheres: military, political, legal and ideological.

The US was able to convince its NATO allies, including the United Kingdom, to support the use of terror in containing terrorism. According to the CIA document National Strategy for Combating Terrorism, the US will tackle terrorist threats using the 4D strategy: Defeat, Deny, Diminish and Defend. The strategy argues that the US will not wait for an attack but will take the battle to the enemy. The mainstay of this policy is that US

⁶⁸Steinhoof, 2007

enforcement agencies will capture the terrorists using pragmatic approaches.⁶⁹ The torture undertaken by the US administration under the guise of the War on Terrorism became public knowledge in 2004. A US Justice Department memorandum issued in 2002 was cited to justify the acts of commission and omission undertaken by US forces to torture al-Qaeda and Taliban detainees. The US government justified the violent actions because the interrogation of detainees helped to protect US citizens and prevent any further terrorist attacks on US soil.

The US Constitution gives the government the right to interrogate and prosecute a person in its custody and presumes him to be innocent until proven guilty. Regarding the act of torturing terrorists, the US government overrode the due process of law. However, successive US governments have defined the War on Terrorism as “ongoing efforts to combat terrorism.” “At the most fundamental level the war on terrorism, no less than terrorism itself, is the consequence of ideas”.⁷⁰ The philosophy demands that we understand what terrorism is in order to know what the War on Terror is. Michael Baur defines terrorism as, “The use of systematic unsystematic violence.” Because it does not have any rules of armed conflict, the war on terror moves beyond the police and military action. Consequently, the nations allied to the US are increasingly being found to be violating all the international laws and norms in using terrorism to acquire information from detainees.

The excessive use of terror has given rise to a host of human rights abuses and complaints regarding unethical practices adopted by the international community to handle what many call ideological warfare or revolutionary upsurges. According to Professor Hehir, “War is an indiscriminate tool ... to contain and capture terrorists....” He further states that it is

⁶⁹ CIA, 2003

⁷⁰ Shanahan, 2005

the job of police and legal networks to prevent acts of terrorism rather than military personnel.⁷¹

There are three aspects of this issue:

- i) Rule of law
- ii) Respecting human rights
- iii) Promotion of democracy⁷²

Mary Robinson, in the introduction of *The Roots of Terrorism*, remarks that, “Finding out why people become terrorists has nothing to do with excusing their crimes”.⁷³ On March 11, 2005, leaders of democratic countries met in Madrid to discuss the Madrid Agenda, an international summit to promote democratic values to tackle the problem of terrorism and promotion of international cooperation “to fight against terrorism”.⁷⁴ The Madrid document stated that terrorists needed to be isolated to address the issues associated with the problem. Terrorism must be treated like any other crime. Some of the measures suggested are:

- a) Terror and terrorism must be treated equally and no protection should be provided for either of them.
- b) The national and international anti-terrorism program and laws must incorporate human rights into their statutes.

⁷¹J. Bryan, 2001

⁷²Richardson, 2006, p. xi

⁷³Richardson, 2006, p. xi

⁷⁴Richardson, 2006, p. 175

- c) A special rapporteur to The United Nations Commission on Human Rights must be appointed to investigate and report the human rights violations carried by the nation states in the conduct of terrorist trials.
- d) Minorities and non-resident citizens must be involved in policy making by the nation states.
- e) It is necessary to build democratic institutions to tackle the problem.⁷⁵

The government's approach therefore sends the message to the world as well as the people of the US that the death penalty is a necessary undertaking to aid in the curbing of the ever-increasing cases associated with terrorism. By using fear as a catalyst the government has managed to impose the penalty on the people and many have unwillingly consented to give up their rights albeit unknowingly. Meanwhile the government continues to present capital punishment as an unavoidable option to combat terrorism.

Chapter VII

Conclusion

This chapter will provide a thorough summary of the entire thesis highlighting the findings arrived at by the research study. The findings and the entire body of research established by the thesis could prove vital as a fundamental basis upon which further research could be built upon for future research. Furthermore, the findings presented could be instrumental for the amendment of the existing policies.

The research on capital punishment and its interrelationship with international relations with a focus on the United States raises the following issues. International relations are based on the premise of national interest, and hence no amount of debate on the subject can force any nation to accede to universal ideals. The American government in principle

⁷⁵Richardson, 2006, p. 183

accepts the idea of the abolition of capital punishment and believes in the Vienna Convention on Consular Relations. However, violations clearly suggest that the US uses its status as a major power to surpass these agreements. Internally, the US Constitution prohibits the federal government from interfering in matters of state law, which sometimes favors capital punishment. However, there are a number of areas that the US has shown reluctance. This has been towards respecting the basic tenets of human rights. In a world where economic relations seem to matter more than political relations, US foreign policy has been pragmatic rather than idealistic in these circumstances.

The research undertaken by this study presented a number of unavoidable challenges that made it difficult to perform the analysis. First, the amount of content concerning capital punishment is quite expansive, proving that it is indeed a serious point of concern. Many scholarly and literary works have been written on the subject making it necessary for the author of the thesis to sift through most of the research to find what was relevant. Secondly, the research was compounded with the problem of time. This was in line with the ever-changing political scenery and socio-economic trends. These trends have led to a number of countries adopting and changing some of their styles of leadership so that they may not lose the support of their people, as evidenced by the situation in Islamic states such as Egypt and Syria.

The US approach has received condemnation from all corners of the world. The European Union has severely criticized the double standards adopted by the US in the handling of consular access issues. In this context, the political pundits rightly argue that the relative decline in economic power may hurt US interests in the way it treats criminal cases involving foreign nationals. Regarding foreign relations, the European Union may not take the repeated instances of human rights violations lightly. The European Council has repeatedly

brought to the notice of US authorities that the violation of foreign citizens' rights may hurt US-EU relations in other areas of international discourse.

The causes of intransigence shown by US authorities were analyzed, and they point out that the US has treated the issue more as a matter of legal discourse rather than one that demands human considerations and justice. In cases where the US has been found to be violating international laws, including the right to a free and fair trial following due process of law and other constitutional rights, the US government has dismissed the recommendations of the Inter-American Commission on Human Rights (IACHR) as “non-binding recommendations” (Capital Punishment, 2013). Most nations refuse to extradite their citizens or foreign nationals to nations that practice capital punishment. However, the US has been found to change their charge sheets in the courts to get the accused extradited and then frame fresh charges to get the accused charged under capital punishment.⁷⁶

After implementing the Vienna Convention provision ratified by the US in 1969, the US changed its mind in 2005. This year, Mexico brought forward the cases of fifty-four Mexicans who it considered were not being granted legal rights. In the International Court of Justice, the US refused to follow the decisions made by the court. The court held that the US failed in its duty to provide due information to these foreign nationals. In 2005, the US decided to withdraw itself from the treaty obligations, claiming that the treaty was an optional code of behavior.

The superpower status of the United States, although in decline, and its control of multilateral political and economic bodies gave it sufficient ability to stall extradition requests from other countries and force the issue. The US has used its influence in international bodies such as the United Nations, International Monetary Fund, and others to pressure the

⁷⁶Capital Punishment, 2013

developing nations to accede to its requests and at the same time has refused to oblige to allied powers. In recent times, the US has denied Indian officials free access to interrogate an accused person, who is a US citizen that was allegedly involved in the Mumbai attacks in 2011. In fact, the US government refused to give custody of the US citizen to the Indian security personnel in their own country and reportedly waived the counts dealing with his involvement in the attack. The US government has not explained this extraordinary behavior and the Indian government has taken this rebuff silently. This one instance brings out how US authorities use their power to manage their national interest at the cost of maintaining good relations with other nations. Americans were also the first ones in many instances in the past to have raised objections against other nations about human rights violations in the conduct of trials. This is especially true in the case of South American and African states, where many of the rulers were dictators. However, the US administration has said very little about such violations in the case of many of its allies in the Arab world or Israel.

The large majority of Americans continues to support the death penalty for social and political reasons. The US is a federation, which gives the states the right to make their own laws and maintain social order as they deem fit. This approach leads the states to cite local reasons in continuing capital punishment. Secondly, Americans are made to believe that many local problems arise from immigration-related issues. Asylum seekers and foreign workers become targets for conservative politics. In political terms, this approach is favored by the Republicans, whose constituency includes white Americans who support capital punishment. The conduct of foreign policy is mainly affected because of the insistence on capital punishment; however, the hard power approach of the US toward foreign policy issues saves it from any overt embarrassment.

In conclusion, four things stand out. First, the US has to overcome local issues and attempt to put an end to the death penalty within the states. This is required especially because the US is considered a leader of the democratic world and capital punishment is an obsolete and traditional concept of jurisprudence. Second, American allies and friends have almost eliminated this practice, so the US is isolated in the community of the nations. Third, as far as international relations, the nations are now almost dependent on each other in terms of commerce and trade, and the US cannot afford to risk, especially in recessionary times, appearing intransigent on matters affecting the mutual interest of the nations. Fourthly, the world has moved a considerable distance from the times when capital punishment was deemed a logical way to punish accused persons. This means the US government has to reform its systems to meet the needs of modern times. These changes also become important because the social discourse in modern society encourages dialogue and discussion rather than instruments of violence to coerce people. Lastly, those laws that enable injustice have to be abolished to preserve and protect lawful societies.

References

- Amnesty International. “*The Death Penalty in 2009.*”(2011),
<http://www.amnesty.org/en/death-penalty/death-sentences-and-executions-in-2009>; Date Accessed: January 20, 2011.
- Amnesty International. “Singapore: The Death Penalty: A Hidden Toll of Executions.” *Amnesty International Journal* 36 (2004),
<http://www.scribd.com/doc/3939804/Singapore-Death-Penalty-A-hidden-toll-of-executions>; Date Accessed: January 20, 2012.
- BBC News Online. “Amnesty International: Global Death Penalty Trend Falls.” March 28, 2011;
Date Accessed: January 20, 2012.
- BBC. “North Korea releases US citizen Eddie Jun Yong-su.” Retrieved March 31, 2013, from BBC : <http://www.bbc.co.uk/news/world-asia-pacific-13583136>
- Breard. <http://avalon.law.yale.edu/diana/42498-1.asp>; Date Accessed: October 15, 2012.
- BBC News Online. “British Anger at China Execution.” December 29, 2009; Date Accessed: January 20, 2012.
- CIA. “National Strategy For Combating Terrorism .” Retrieved August 31, 2012, from CIA : https://www.cia.gov/news-information/cia-the-war-on-terrorism/Counter_Terrorism_Strategy.pdf
- Counterterrorism, B. O. “Foreign Terrorist Organizations.” Retrieved August 31, 2012, from US Department of State :
<http://www.state.gov/j/ct/rls/other/des/123085.h>
- Chavez, Erin. “Amnesty International Releases Global Report on Death Penalty.” *Toonari News & Media* (2011),
<http://www.toonari.com/2011/05/amnesty-international-releases-global-report-on-death-penalty>; Date Accessed: June 7, 2011.

Child Rights Information Network. "Inhuman sentencing of children in Somalia." Draft Report, CRIN, 2011.

Constitution, U. "Bill of Rights." Retrieved March 31, 2013, from Law.cornell.edu: <http://www.law.cornell.edu/constitution/billofrights#amendmentviii>

Deathpenaltyworldwide. "North Korea." Retrieved March 22, 2013, from <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=North+Korea>

Death Penalty Information Centre. "Amnesty International: The Death Penalty's Impact on US Foreign Relations." (2011), <http://www.deathpenaltyinfo.org/node/500>; Date Accessed January 20, 2012.

Dieter, Richard. "The Death Penalty and Human Rights: US Death Penalty and International Law." (August 30, 2002), <http://www.deathpenaltyinfo.org/Oxfordpaper.pdf>; Date Accessed: January 10, 2011.

DPIC. "Foreign nationals" Retrieved April 6, 2013, from DPIC: <http://www.deathpenaltyinfo.org/category/categories/issues/foreign-nationals>

Death Penalty Information Centre . (2010, November 16). "Public Opinion About the Death Penalty." Retrieved July 28, 2013, from DPIC website: <http://www.deathpenaltyinfo.org/public-opinion-about-death-penalty>

Douglas, Davison M. "Introduction: Death Penalty and International Law." *William & Mary Bill of Rights Journal* 13, no. 2 (2004), <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1233&context=wmborj&seiredir=1#search=%22Introduction:+Death+Penalty+and+International+Law+Davison+M.+Douglas%22>; Date Accessed: June 5, 2011

Falk, Pamela. "Will Texas Execution Hurt Those Detained Abroad?" (July 8, 2011), http://www.cbsnews.com/8301-503544_162-20077990-503544.html; Date Accessed: December 10, 2011.

Federal Research Division of the Library of Congress,
<http://countrystudies.us/mexico/93.html>;
Date Accessed: January 20, 2012.

Death Penalty Information Centre Newsletter. "Foreigners under Sentence of Death Worldwide."
(November 13, 2011), <http://users.xplornet.com/~mwarren/world.html>; Date Accessed: January 20, 2012.

George W., B. "Address on terrorism before a joint meeting of Congress."
Transcript. *The New York Times*, (2001, September 21). p. B4.

Gherardi, Carlo A. "The Death Penalty: From Acceptance to Universal Abolition in 100 Years,"
1, (2008),
<http://www.thoughtbase.com/uploads/1/6/7/0/1670402/fromacceptancetoabolition.pdf>;
Date Accessed: June 6, 2011.

Goetz, John and Marcel Rosenbauch. "The Death Penalty Problem: 9/11 Trial Puts German-US Relations under Strain." *Spiegel Online International* (2009),
<http://www.spiegel.de/international/world/0,1518,662814,00.html>; Date Accessed: January 20, 2012.

Hoffman, B. "Inside Terrorism". US: Columbia University Press. 2006

HRW. "World Report: North Korea." Retrieved March 31, 2013, from HRW:
<http://www.hrw.org/world-report-2012/world-report-2012-north-korea>

Hugo Adam Bedau, P. G. (2005). "Debating the Death Penalty: Should America Have Capital Punishment? The Experts on Both Sides Make Their Case." US: Oxford University Press.

IJP. "Javier Suarez Medina." Retrieved April 16, 2013, from
Internationaljusticeproject:
<http://www.internationaljusticeproject.org/nationalsJMedina.cfm>

International, A. "The Death Penalty In 2011." Retrieved March 22, 2013, from
<http://www.amnesty.org/en/death-penalty/death-sentences-and-executions-in-2011>

J. Bryan, H. "What can be done? What should be done?." *America* , 2000.pp. 9-12.

James Lutz, B. L. *Global Terrorism*. New York: Routledge, 2008.

James, B." Israelis hit home of a Hamas chief; his fate unclear." *The New York Times*, (2002, July 23). p. A1.

Kronenwetter, M. *Capital Punishment: A Reference Handbook*. US: ABC-CLIO.2001.

Kyu Chang Lee, G. J. "The North Korean Criminal Trial System: Characteristics and Actual Practice." *Korea Institute for National Unification* .2011.

Kirgis, Frederick. "World Court Rules against the United States in LaGrand Case Arising from a Violation of the Vienna Convention on Consular Relations." *American Society of International Law. Insights* 11 (2001), <http://www.asil.org/insigh75.cfm>; Date Accessed: January 20, 2012.

Lane, Charles. "The US Quits Pact Used in Capital Cases." *Washington Post* (March 10, 2005), <http://www.washingtonpost.com/wp-dyn/articles/A21981-2005Mar9.html>; Date Accessed: January 20, 2012.

Malandain, Lucile. "New Charges Bring 9/11 Trial Closer." *Sydney Morning Herald* (June 1, 2011), <http://news.smh.com.au/breaking-news-world/new-charges-bring-guantanamo-911-trial-closer-20110601-1ff4u.html>; Date Accessed: January 20, 2012.

Murphy, Russell G. "Executing the Death Penalty: International Law Influences on United States Supreme Court Decision-Making in Capital Punishment Cases." *Suffolk Transnational Law Review* 32, no. 3 (September 2009),<http://law-journals-books.vlex.com/vid/executing-penalty-influences-punishment-81731002>; Date Accessed: December 18, 2011.

Newport, Frank. "In US, Support for Death Penalty Falls to 39-Year Low; Fifty-two Percent Say

the Death Penalty Is Applied Fairly." *Gallup Poll News Service* (October 13, 2011), <http://www.gallup.com/poll/150089/support-death-penalty-falls-year-low.aspx>; Date Accessed: January 20, 2012.

Nichols, Adam. "Germans Weasel In on 9/11 Trials." *New York Post* (November 22, 2009), http://www.nypost.com/p/news/international/germans_weasel_in_on_trial_pogG29ROLzHomP3ehgkHpO; Date Accessed: January 20, 2012.

Peiffer, E. "The Death Penalty in Traditional Islamic Law and as Interpreted in Saudi Arabia and Nigeria." *William & Mary Journal of Women and the Law* , 2005.507-539.

Procon. "What are the federal acts and policies governing the death penalty?" Retrieved March 31, 2013, from [Deathpenalty.procon.org](http://deathpenalty.procon.org): <http://deathpenalty.procon.org/view.answers.php?questionID=001787>

Punishment, C. "International Law and Opinion." Retrieved April 28, 2013, from [Capitalpunishmentincontext](http://www.capitalpunishmentincontext.org): <http://www.capitalpunishmentincontext.org/issues/international>

Radelet, Michael L. and Traci L.Lacock. "Do Executions Lower Homicide Rates? The Views of Leading Criminologists." *Journal of Criminal Law and Criminology* 99, no. 20 (2009): 489-507, <http://www.deathpenaltyinfo.org/files/DeterrenceStudy2009.pdf>; Date Accessed: September 29, 2012.

Reporter, Staff. "Outrage Builds After Texas Executes Mexico Citizen." *Agence France-Presse* (July 8, 2011), <http://www.google.com/hostednews/afp/article/ALeqM5gTL2aQa066mjKsg16rTRf6UDRSnA?docId=CNG.30aa9b9b074afa419ce37be9b0dfb484.261>; Date Accessed: December 12, 2012

Richardson, L. *The Roots of Terrorism (Democracy and Terrorism)* . US: Routledge.2006.
Romero, Anthony D. "Terrorists Are Criminals and Should be Tried in Civilian Court." 16 February 2010. 14 April 2013, <http://www.usnews.com/opinion/articles/2010/02/16/terrorists-are-criminals-and-should-be-tried-in-civilian-court>>.

Rothenberg, Laurence E. "International Law, US Sovereignty, and the Death Penalty." *Georgetown Journal of International Law* 35, no.3 (March 2004), <http://law-journals-books.vlex.com/vid/international-sovereignty-death-penalty-56644890>; Date Accessed: January 20, 2012.

Ryan, Meghan J. "Does the Eighth Amendment Punishments Clause Prohibit Only Punishments That Are Both Cruel and Unusual?" *Washington University Law Review* 87, no. 3 (2010), <http://lawreview.wustl.edu/in-print/does-the-eighth-amendment-punishments-clause-prohibit-only-punishments-that-are-both-cruel-and-unusual/>; Date Accessed: January 20, 2012.

Schabas, William A. "International Law, the United States of America and Capital Punishment." *Suffolk Transnational Law Review* 31 (2008), <https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=31+Suffolk+Transnat%271+L.+Rev.+377&srctype=smi&srcid=3B15&key=b27e47ce9973f3dfaa6cbc11b603f341>; Date Accessed: January 20, 2012.

Shanahan Timothy (Ed) *Philosophy 9/11: Thinking About the War on Terrorism* US: Carus Publishing Company, 2005.

Spiegel Online International. "German Minister Denies Request for Execution Drugs"; <http://www.spiegel.de/international/world/0,1518,767613,00.html>; Date Accessed: January 20, 2012.

Steinbock, Uwe. *On the Ethics of War and Terrorism*. US: Oxford University Press, 2007.

World, A. D. "Yemen." Retrieved March 31, 2013, from Handsoffcain.info: <http://www.handsoffcain.info/bancadati/schedastato.php?idstato=17000475>