6.1 Conclusion

In the final analysis, it is submitted that the idea of the sanctity of human life remains universally an inviolable principle across the societies since time immemorial. The phrase ‘sanctity of human life’ implies the human life is holy, precious, and sacred. The basis of this idea primarily derives from the moral and ethical teachings of various religions of the world much before it becomes a universal legal doctrine. The sacredness of human life is a fundamental notion of most of the world religions. In Judaeo-Christian tradition, it is prescribed “thou shall not kill”\(^1\), which is one of the directives of Ten Commandments. This Mosaic commandment was reaffirmed by the Jesus Christ (pbuh) in his well-known teaching of ‘Sermon on the Mount’. This sanctity of human life is not unique to any religion, in fact, all the major world religion shares the similar belief. However, the most well-known assertion of the sacredness of human life is found in the Quran. As Quran says,

“…if any one slew a person - unless it be for murder or for spreading mischief in the land - it would be as if he slew the whole people: and if any one saved a life, it would be as if he saved the life of the whole people.”\(^2\)

This well-founded stand of the Quran pertaining to sanctity and inviolability of human lives has been reaffirmed by Prophet Muhammad (pbuh) in many reported hadiths, some of them are as follows: ‘The greatest sins are to associate something or someone with Allah [polytheism, shirk] and to kill human beings.’\(^3\) And ‘The first cases to be decided among the people (on the Day of Resurrection) will be those of bloodshed.’\(^4\)

It is observed that in spite of such inviolable principle concerning the sacredness of human life, under certain extreme circumstances the reference of the death penalty also remained in existence in almost world most ancient texts which includes religious texts as well and Islam is no exception to it. From the earliest times, capital punishment remained in practice despite the fact that the idea of inviolability human life also remained a universal principle of various societies since ages. Hammurabi code of 1760 B.C. which is considered to be the first written code, had the provision of death penalty for twenty-five crimes. And since then, provision of death penalty became the part of

\(^1\) Exodus 20:13, Deuteronomy 5:17
\(^2\) Holy Quran, Chapter 5 Verse 32.
\(^3\) Sahih Bukhari, Vol. 9, Book 83, Hadith 1.
\(^4\) Sahih Bukhari, Vol. 9, Book 83, Number 4.
almost every code. It must be remembered that it is not that only religious texts which attach sanctity to human life but secular laws also attaches inviolability to human life so much so that in the last fifty years of abolition movement against capital punishment has reached to such an extent that as of December 2016, total one hundred and forty-four countries have abolished the capital punishment either in law or practice\(^5\) and majority of these countries are governed by secular laws.

Accordingly it is seen that on the one hand, the idea of sanctity of human life remains universally an inviolable principle across the societies since time immemorial, and on the other hand the legitimacy and justification of the state retaining the ability to extinguish human life on the pretext of preserving and protecting humans’ life has also been in existence for centuries. In view of that, it is found that both Indian, as well as Islamic law, holds the idea of the sacredness of human life on one hand\(^6\) and while at the same time both laws authorise the state to take away the human life by way of just and fair procedure established by law.\(^7\) However, a key point must be remembered that on the basis of the study's findings, the researcher has reached to a reasoning that a strict comparison cannot be made between Indian law and Islamic Sharia, as in former the system is well established where law is properly defined and interpreted by the judiciary, whereas, later is only an abstraction of legal principle.

As the Indian legal system is founded upon the common legal system which is the product of secular law and its philosophy of punishments is based on the modern day philosophies of punishment i.e. retributive, deterrent, preventive, restorative, and reformative, that date back from the 18\(^{th}\)-century. Interestingly, it is found that although the source of Islamic law is divine but the basis of Islamic punishments are also founded on the similar philosophies of punishments so much so that it encompasses almost every aspect of modern day philosophies which are put forward by different schools of criminology concerning punishments i.e. retribution, deterrent, preventive, reformative


\(^6\) Article 21 of the Indian Constitution guarantees ‘Right to life’ in the following manner: No person shall be deprived of his life or personal liberty except according to a procedure established by law. On the other hand various verses of Quran also establishes the sanctity of human life, for instance, Chapter 5 Verse 32 says, “whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely. And whoever saves one - it is as if he had saved mankind entirely”; Chapter 6 Verse 151 prescribes, “take not life, which Allah hath made sacred, except by way of justice and law”; Chapter 17 Verse 33 mandates, “Nor take life - which Allah has made sacred - except for just cause”

\(^7\) Ibid
and restorative over the period of time. It means that Islamic criminal jurisprudence doesn’t belong to any single school of criminology but in fact, it includes and encompasses every important characteristic of modern day philosophy of different school of thoughts concerning punishments. From this, the first hypothesis of the researcher got proved which asserts that although the sources of both the laws are altogether different from each other nonetheless both the Islamic penal architecture and the Indian criminal legal system stands on the same philosophical foundations and have common ends of providing justice and preventing crimes.

In addition, it is seen that the justifications upon which law of capital punishment is based on modern philosophies of punishment principally rests on the idea of deterrence and retribution. Jurists like Cesare Beccaria, Bentham, and Salmond allowed the use of capital punishment on the pretext of utilitarian grounds i.e. deterrence. It is understood that life is dearest to all and no one wants to lose it, accordingly, deterrence theory assumes that most of the persons are rational individuals and potential offenders will commit a crime only if they perceive that the gain they will derive from the criminal act will be greater than the pain they will suffer from its penal consequences. For that reason, Sir James Fitzjames Stephen has stated:

Some men, probably, abstain from murder because they fear that if they committed murder they would be hanged. Hundreds of thousands abstain from it because they regard it with horror. One great reason why they regard it with horror is that murderers are hanged.\(^8\)

Hence, according to utilitarian jurists, the aim of punishment is not revenge but terror. An exemplary punishment should be given to the criminals so that the others may learn a lesson from him.

Likewise, retributivist jurists justify the capital punishment for the reason that the offender is to be punished because he has committed a crime and he must be given his due. The end of punishment is not to promote any good but pay back the criminal for the crime he has committed. The punishment must be in the proportion of crime committed which befits the crime. Sir Immanuel Kant is the leading exponent of this theory and he summed up the justification of capital punishment under retributivist theory in such words:

Even if a civil society were to dissolve itself by common agreement of all of its members (for example, if the people inhabiting an island decide to separate and disperse themselves around the world) the last murderer remaining in prison must first be executed, so that everyone will duly receive what his actions are worth and so that the blood guilt thereof will not be fixed on people because they failed to insist on carrying out the punishment, for if they fail that they may be regarded as complicit in this public coalition of legal justice.⁹

Thus, the justification put forward by retributivist is that the offender is to be punished because he has committed a crime and he must be given his due. It is based on payback principle. As a result, it is observed that death penalty law under Indian criminal legal system is chiefly based on the philosophy of deterrence and retribution.

On the other hand, it is seen that the capital punishment under Quran is allowed for only two cases of crimes i.e. murder and spreading corruption in the land on the philosophy of retribution and deterrence. The Quran outlines the purpose of capital punishment prescribed for the crime of murder i.e. retribution (qisas). It says, “There is life for you in retribution (qisas), O men of insight! that you may follow the limits set by Allah.”¹⁰ In view of that, the purpose of the capital punishment is to safeguard man's existence in this world. According to Amin Ahsan Islahi, a well-known Quranic exegete, in the above-mentioned verse the phrase ‘there is life for you in retribution (qisas)’ actually referring to the life of a society and not to the life of an individual. A society in its collective capacity is like a body. At times, one of its limbs gets infected to the extent that the only option is to cut it from the body through an operation. If sympathy is shown by considering it to be the limb of a patient, there is all the chance that this would fatally affect the whole body.¹¹ Thus, qisas is not an end in itself but death penalty on the pretext of qisas in case of murder is prescribed for a larger good i.e. to safeguard man's existence in this world.

Similarly, in the crime of spreading corruption in the land (fasad fil ardh) punishable with four different kind of punishment in which the first two punishment is taqtil (execution in painful and exemplary manner) and taslib (execution through crucifixion).¹² Both these modes of executions are prescribed in order to deter the

---

⁹ Syed Mohammad Afzal Qadri, *Criminology & Penology* 130 (Eastern Book Company, Lucknow, 6th edn., 2009)
¹⁰ Holy Quran, Chapter 2 Verse 179
¹¹ Amin Ahsan Islahi, *Tadabbur i Quran* (Vol. 1) 436 (Faran Foundation, Lahore, Pakistan, 2009).
¹² Holy Quran, Chapter 5 Verse 32
possible offenders by instilling the fear of death in their minds. Therefore, equally, it has been found that the philosophy of capital punishment under Islamic sharia also founded upon the same idea of deterrence and retribution. Hence, the second hypothesis of the researcher also stands proved that suggested that the idea of capital punishment enshrined in the Indian as well as the Islamic legal system is centred on the same two common principal theories of punishment i.e. Deterrent and Retributive.

Regarding the third hypothesis which assumes that the practice of Islamic countries in connection with the death penalty is in violation of the law of capital punishment mentioned in the Quran also got proved. As it has been observed in the preceding chapters that the Quran restricts the use of capital punishment for the class of crimes only i.e. murder and spreading corruption in the land (fasad fil ardh). Not only that, Islamic law also prohibits the use of punishment let alone capital punishment in case of doubt and allows the consideration of mitigating factors before sentencing any guilty person with death sentence which clearly means that mandatory death sentence is not the directive of sharia in a crime punishable with death. However, it is observed in preceding chapter that Islamic countries practice capital punishment for a wide range of crimes so much so that these countries allow the use of capital punishment in the discretionary (tazir) crimes as well. Furthermore, these countries also practice mandatory death sentence for certain category of crimes which is further a violation of Islamic sharia which does not advocate for the mandatory death sentence for capital crimes.

It must be remembered that under Islamic sharia mandatory death sentence comes into picture only when in the crime of murder the kin of victim is not ready to compound the crime on diyat (blood money) or forgiveness and insist upon taking the life of the offender under the law of qisas then only in such case the court has no right to decrease the sentence and it has to carry out the will of the victim’s family accordingly. But simultaneously it is also to be remembered that Islamic sharia urges the victim’s kin to forgive the criminal or compound the crime with blood money in lieu of taking away the life of the murderer under the law of qisas. Hence, from the above, it is quite clear and evident that all the three hypothesis raised by the researcher stands proved.

13 ibid
It is worth mentioning here, that human society throughout history have struggled a lot in determining the appropriate punishments for specific crimes as a human being doesn’t have any rational basis to determine the parameters of appropriate punishments for a specific crime. That’s why human society has swung to two extreme ends like a swinging pendulum. For instance, it has been observed that there had a time when less serious offence like theft could attract the punishment of death penalty when deterrent and retribution theory was the driving philosophy in addressing the crime, whereas, by the end of 20th century humanity witnessed a new dawn in this regard so much so that penological studies have turned into the correctional studies where reformatory approach has started to dominate the philosophical debate concerning crime and punishment. As a result, presently total one hundred forty-four countries have abolished death penalty either in law or in practice, which clearly reflects the swinging pendulum approach of the human society.

It is also observed while carrying out the comparison of practices of capital punishment in India and Islamic countries that although in recent years the Indian Judicial system has been using the death penalty rarely but some critics have pointed out that this is in fact worse than the position of universal application of death penalty in serious cases. They point out rightly to a very disturbing aspect of the death penalty that rather than having any deterrent effect it makes the death penalty a case of deadly lottery where the convict’s chances of execution or survival depends not upon the magnitude of the crime but rather upon the subjective opinion of the judges of the court who have no standard parameters for the application of the death penalty. Thus it has been an extremely sad aspect of the criminal justice system in India that the people who are executed are exclusively belonging to vulnerable groups like Muslims, Tribals, Dalits and other poorer sections of the society. Furthermore it is also observed that India need for a review of ‘rarest of rare doctrine’ as although the rarest of rare doctrine was introduced with the noble intention of showing leniency towards the convict and not sending him to gallows for each and every heinous crime, but in practical application this doctrine has done more harm than good. As there is not clear cut principles which could be used to test whether a crime would fall into the category of ‘rarest of rare’ doctrine or not. As a result, it is seen that it has become an entirely

subjective matter for a judge to decide, which has resulted in many crimes that almost identical cases have been dealt with differently. In addition to this, it is also witnessed that there is lack of adequate sentencing guidelines on capital punishment. Supreme Courts time and again pointed out towards the absence of proper sentencing guidelines and held that India needs a proper well-defined sentencing policy. As inadequate sentencing policy empowered judges with wide discretionary power in this regard which many times resulted into abuse of power and make room for personal prejudices of judges to influence decisions.

Similarly, it is observed that the practice of three leading Islamic countries i.e. Iran, Saudi Arabia and Pakistan in terms of execution is critical in comparison to India. The most serious flaw in respect of Saudi Arabia, is the absence of codified penal laws leaving definitions of crimes and punishments vague and widely open to arbitrary interpretation. Moreover, it is also found that often death penalties in Saudi Arabia and Iran are carried out in a secret and summarily manner and many times accused are not afforded to proper legal assistance to defend their case which leads to travesty of justice. Furthermore, it is also alleged by International organisations that Saudi Arabia, Iran and Pakistan along with other Islamic countries practice capital punishment for the offences which are not internationally considered to be the capital crimes under International law. These crimes include apostasy, blasphemy, adultery, homosexuality, witchcraft or sorcery. In any case it is found that fair trials are not afforded to the accused which further leads to the failure of justice. It is also observed that the goal of independence of judiciary is still to be achieved in Islamic countries especially in Iran where the supreme political leader is final authority in appointing head of judiciary who happens to supervise the judiciary in terms of appointment, promotion, termination of judges.

In the end, it is submitted that due process and the rule of law are among the preconditions for protection and promotion of human rights. In a society where rule of law plays a pivotal role in its judiciary, the government facilitates all individuals, regardless of gender, ethnicity or belief, to enjoy equal rights. Equality before the law, an independent and impartial judiciary, including judges, prosecutors and lawyers who are able to defend citizens and their rights without fear of persecution or harassment, are essential elements of due process and the rule of law.

6.2 Suggestions

In view of the above submission following suggestive measures can be taken to improve law relating to capital punishment under both the laws:

1) One of the major issue with the understanding of Islamic sharia has been that the following verse “if anyone killed a person, not in retaliation of murder, or (and) to spread mischief in the land - it would be as if he killed all mankind” (emphasis supplied) is not taken as a criterion for declaring any crime to be a capital offence in Islamic sharia. The above-mentioned verse very categorically mentions the exceptions in which capital punishment could be awarded, which clearly means that in Islamic sharia only such crimes can be declared to be capital crimes which either are murder or fasad fil ardh (spreading mischief in the land). But in theory as well as in practice we find that there are numbers of offences which are considered to be capital crimes under the classical interpretation of Islamic sharia as well as in the practice of leading Islamic countries. Therefore, a review of capital crimes is required in the light of above mentioned clear directive of Quran because, in all the Islamic schools of thought, Quran has the supreme authority in Islamic sharia.

2) As there emerges a sharp contrast when we compare the crime rates of the Islamic countries with that of India. Despite being similar in its philosophy and aims concerning capital punishment, we witness that existing modern day Islamic legal system has been able to control crime much effectively in comparison to Indian legal system. Hence, the rationale that can justify this difference is that capital punishment is an effective deterring tool only when it is executed in a public and exemplary way. Accordingly, it is suggested that an empirical study is needed to test the veracity of the above-mentioned claim.

3) No capital punishment should be awarded in cases of tazir crimes.

4) Due to the unclear definition of terminology ‘fasad fil ardh’ and ‘Muharabah or Hirabah’; the charges of “Muharabah” (waging war against God) and ‘fasad fil ardh’ or “causing corruption on earth” are used against a wide range of offences in Islamic countries. In view of that, it is suggested that a universal definition of the above-mentioned terminologies are required in a proper and well-defined manner.
Various studies have established that Indian, as well as Islamic countries, are implementing capital punishment in an arbitrary and unfair manner. Hence, it is suggested that until the system of administration of justice functions in a just manner, a complete moratorium on capital punishment is the need of the time.

Capital punishment should be applied to the last resort only when all the other available alternatives such as reconciliation, reform, and repentance are exhausted.

Parliament of India should come with a Law so as to clearly lay down guidelines in the cases of ‘rarest of rare’ in which death penalty may be awarded.

Islamic countries should abolish the provisions of a mandatory death sentence as it is against the Quran.

Islamic Countries need to review their capital punishment in the light of Quran and Sunnah specifically for the crime of Apostasy, Homosexuality, Adultery and Blasphemy.

Following are some suggestions country wise:

**Saudi Arabian authorities should:**

- Restrict the scope of the death penalty to intentional killing, in line with international law and standards on its use.
- Stop using the death penalty on anyone under the age of 18 at the time of their alleged offence, in accordance with Saudi Arabia’s obligations under the Convention on the Rights of the Child.
- Stop using the death penalty on anyone suspected of suffering from mental and intellectual disabilities.
- Ensure that foreign nationals have adequate access to consular and interpretation services.
- Ensure rigorous compliance in all death penalty cases with international standards for fair trials.
- Ensure that all allegations of torture and other ill-treatment used to extract “confessions” are promptly and impartially investigated, and those found guilty of committing them are held to account.
• Stop using the death penalty as punishment for crimes that are not considered “most serious crimes” in international law, and particularly for those crimes that Shari’a law as practised in Saudi Arabia does not mandatorily call for the death penalty;
• Ensure that detainees are informed of and are granted their rights from the time of their arrest, including their right to a lawyer;
• Ensure that defendants receive a fair trial in proceedings that ensure the most rigorous compliance with international standards for fair trial, at least equal to Article 14 of the International Covenant on Civil and Political Rights, and without resort to the death penalty. In particular, all defendants should be granted their rights:
  • Accused should have immediate and unhindered access to a lawyer of their choice from the time of their arrest and detention;
  • They should be tried before an independent, impartial and competent tribunal;
  • They must be afforded competent defence counsel at every stage of the proceedings;
  • They must be given adequate time and facilities to prepare their defence;
  • They must be presumed innocent until guilt has been proved beyond a reasonable doubt;
  • To appeal to a higher court;
  • They must be afforded the opportunity to seek pardon and commutation of sentence.
• Review the cases of all prisoners currently under sentence of death with a view to commuting their sentences or offering them a new and fair trial without resort to the death penalty;
• Bring trial proceedings into full conformity with the UN Safeguards guaranteeing the protection of the rights of those facing the death penalty (ECOSOC Resolution 1984/50 of 25 May 1984), and ensure that these are adhered to in practice, in order to guarantee adequate opportunity for defence and appeal, and exclude the imposition of the death penalty when there is room for alternative interpretation of the evidence. This should include the provision by the authorities of legal assistance for the accused if they cannot arrange it, and the introduction of conditions that would prevent trials in death penalty cases when defendants do not have proper access to legal assistance;
• Review and amend or appeal the vague laws on crime and punishment in order progressively to reduce the number of offences punishable by death, ensuring that the death penalty is not prescribed for non-violent offences, and with the aim of restricting judges’ discretion in the use of the death penalty, taking into account Resolution 2001/68 adopted by the former UN Commission on Human Rights on 25 April 2001;
• Invite the UN Special Rapporteur on extrajudicial, summary or arbitrary executions to visit Saudi Arabia.

The government of Pakistan should:

• Adopt anti-torture legislation that is in full compliance with the ICCPR and the Convention against Torture and that particularly defines and criminalizes torture, provides an independent complaint mechanism and provides redress and remedies to victims.
• Revise the Pakistan Penal Code, 1860 and the Anti-Terrorism Act, 1997 to limit the death penalty to cases of intentional killing that resulted in death.
• Reinstate the moratorium on the death penalty. Following the reinstatement, the Government of Pakistan should initiate an independent and impartial investigation into all cases on death row where there is even the slightest indication of a human rights violation including juvenility at the time of the commission of the offence, mental illness, torture, and abuse.
• Admit post-conviction reviews on the basis of evidence of the use of torture, juvenility at the time of the commission of the offence, mental illness, duration spent on death row or other forms of ill-treatment.
• Introduce and enforce protocols for the determination of age at the time of arrest and provide the benefit of the doubt to the accused person at all stages of investigations and proceedings.
• Bar death sentences delivered primarily on the basis of confessions and/or oral testimonies.
• Enact legislation explicitly prohibiting the execution of mentally ill prisoners even if the illness is diagnosed post-conviction and/or sentencing.
• Ensure that prison conditions and sentences of juveniles and mentally disabled detainees are in accordance with the ICCPR and other relevant international laws and rules.
• Revise and review the definition of terrorism under the Anti-Terrorism Act, 1997 to limit the scope of offences that fall within the ambit of “terrorism”. Include a provision within the ATA that bars the jurisdiction of the Anti-Terrorism Courts over juvenile offenders.
• Take all appropriate measures to ensure that all allegations of torture and ill-treatment are investigated promptly and thoroughly by independent bodies and that all perpetrators are punished commensurate with the gravity of the crime.

Recommendations for Iran:

• Place moratorium on the use of the death penalty, especially death penalty for juvenile offenders, the death penalty for drug offences
• Push for serious reforms in the Iranian judicial system, including dismantlement of the Revolution Courts
• Remove all the death sentences issued for offences committed at under 18 years of age
• Give all prisoners access to lawyers selected by themselves
• Stop the persecution of lawyers
• As a first step, to restrict the number of offences carrying the death sentence to the most serious crimes only, and to refrain from adopting new crimes entailing capital punishment, in conformity with international human rights standards; to suppress the mandatory death sentence when it currently exists, as imposed by international human rights law. These amendments should be applied retrospectively to prisoners who were condemned to death on the basis of prior legislation, in conformity with para. 2 of the UN Safeguards Guaranteeing the Protection of the Rights of Those Facing the Death Penalty
• To put an immediate end to the sentencing and execution of minors, and commute all death sentences pronounced against persons who were below 18 at the time of the offence
• To guarantee transparency of data collection regarding the death penalty in the country, and make public statistics on the number of death sentences pronounced and executed every year, differentiated by gender, age, charges etc, in order to allow for an informed public debate on the issue
• To guarantee transparency of data collection regarding the death penalty in the country, and make public statistics on the number of death sentences pronounced and executed every year, differentiated by gender, age, charges etc, in order to allow for an informed public debate on the issue

• To strengthen police investigations, in particular through material and forensic information collection, to ensure proper training in those fields and to stop basing police promotion on solved cases since it induces the police not to file FIR as long as they do not hold the person they believe to be the culprit

• Commute death sentences for all juveniles and individuals with mental illness, as well as those with convictions based primarily on circumstantial evidence or coerced confessions.

In the immediate interim, India Should:

• Impose an immediate moratorium on executions pending abolition of the death penalty.

• The ‘rarest of rare’ doctrine must be reviewed as has also been suggested by the law commission and clear principles must be enunciated which shall be employed to test whether a case is a ‘rarest of rare’ or not.

• Must lay down clear and unambiguous structured sentencing guidelines as the current sentencing procedure provided by the Criminal Procedure Code which gives broad discretionary power to judges.

• Ensure that the death penalty is not imposed or carried out on anyone suffering from a mental disability – either permanent or temporary; remove anyone suffering from a mental disability from death row and provide them with appropriate medical treatment.

• Ensure that cases of persons suspected to have been juveniles at the time of the offence and presently on death row are examined without further delay.

• Abolish all provisions in the legislation which provide for mandatory death sentences.

• Initiate an urgent independent study into the extent to which national law and international standards for fair trial and other relevant international standards have been complied with in capital cases in at least the last two decades (as per the recommendation of the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions).
- Provide compensation and care to those found to have been the victims of miscarriages of justice in capital cases.
- End the secrecy surrounding application of the death penalty by making all information regarding the past use of the death penalty, and the total number of persons presently on death row with details of their cases, publicly available.
- Having made available such statistical information and having carried out an independent study of capital cases and their conformity to national and international law, initiate a parliamentary debate on the abolition of the death penalty.
- Provide a mandatory appeal to the Supreme Court in all cases where a death sentence has been awarded (including by any military court) as previously recommended by the Law Commission of India;
- Implement the Law Commission’s recommendation that a Bench of five judges decides any capital case in the Supreme Court;
- Recognise the requirement of unanimity of judges as a procedural safeguard in the award of the death penalty;
- Disallow the award of the death sentence or enhancement of a sentence to death by the High Court or Supreme Court, in any case where a trial court has directed an acquittal or awarded any other sentence.
- Order an investigation into the cases of prisoners on death row who were reported to have been tortured, ill-treated or denied access to legal counsel during police questioning;
- Ensure that ‘confessions’ obtained under duress are never invoked by state prosecutors in legal proceedings against criminal suspects;
- Ensure that anyone who faces the death penalty has an effective right to competent state-appointed legal counsel of the defendant’s choice during the entire legal process, including appeals and mercy petitions;
- Ratify the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment as also its Optional Protocol.