

Legal Committee
Republic of Guatemala
Wyoming High School

While the legality and ethics of the death penalty are being questioned around the world, the Republic of Guatemala has a de facto moratorium in place, as the last known execution took place in 2000 by means of lethal injection. This execution was publicly televised. For the Guatemalan people, the ethics of the death penalty are not a problem in ideology, but in practice. A people scarred by genocide, Guatemalans place the utmost importance on transparency, the right to due process, which is protected by Article twelve of Guatemala's constitution, and a fair trial. Where the death penalty is involved, the risk of unjust execution of the innocent or of ethnic and racial biases increase, which is seen as very dangerous to a people who lived through an ethnically driven genocide as recently as thirty years ago. In Guatemalan courts in 1993, two men were convicted for the rape and murder of a four-year-old girl. These defendants were not offered legal counsel for eleven days after their arrest, a direct violation against the due process laws outlined in Articles 142 to 164 of the Guatemalan constitution. When the men were finally offered legal representation, they were assigned to unlicensed law students from a local university. The men were executed in 1996 after various due process violations in the trial itself. For example, the defendants were not allowed the right to cross-examine witnesses. It is this kind of unjust system in which the death penalty is rooted, and it is important to the Guatemalan people that these dangers be avoided by eliminating the practice of the death penalty.

In the sixty seventh general assembly in 2012, the Republic of Guatemala voted 'yes' for a "Moratorium on the use of the death penalty" (Resolution A/C.3/67/L.44). This resolution was adopted with a vote of one hundred and ten 'yes' to thirty nine 'no' with thirty six abstentions, and had a view to abolish the death penalty. In effect, this voided President's Colom's 2008 decision to reinstate the death penalty. According to the Guatemalan constitution, the death penalty may only be considered within certain crimes, including but not limited to rape of a minor (under 10 years), kidnapping, torture, forced disappearance, or violation of military code. The death penalty may not be applied to women, persons over sixty, and persons convicted of political crimes.

The Republic of Guatemala seeks holistic reform of justice systems around the world. In order to move away from the use of antiquated systems such as the death penalty, which are consequences of a culture of violence and criminal justice systems built around punishment as opposed to prevention, governments must begin to focus on reforming penal systems that are currently largely punitive into rehabilitation programs, thus preventing future crimes. This is the first step to addressing the larger problem of public safety. Until then, states should be urged to participate in an optional moratorium of the death penalty. The United Nations can then establish a committee that will take charge of overseeing criminal justice systems. With optional participation, this committee will deem justice systems of participating states just or unjust, with special focus on the availability of due process and presence of corruption in prison and court systems. If the system is deemed just, the international community can have confidence that the rights of any defense to due process and a fair trial will be protected. With these standards being followed, the Republic of Guatemala would accept the use of the death penalty, knowing that there exists high levels of transparency and equality before the law.