

Islamic Member State Justification for the Use of the Death Penalty within the Universal Periodic Review

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1. Introduction

The aim of the project is to analyse the legitimacy of justifications for the continued use of the death penalty which are grounded in Islamic law. The context for the study is the UN Universal Periodic Review (UPR). The UPR is a mechanism of the Human Rights Council and was created through the UN General Assembly on 15 March 2006. It is a unique process that reviews the human rights records of all UN member states. Each UPR cycle runs for a period of four and a half years.

The Universal Periodic Review "has great potential to promote and protect human rights in the darkest corners of the world." – Ban Ki-moon, UN Secretary-General

4. Existing Literature

At present, there have only been two book-length publications on the UPR and a number of scholarly articles. However there is a clear lacuna in the literature as there is no particular focus of the death penalty, in Islam, within such a context.

See Purna Sen, *Universal Periodic Review: Lessons, Hopes and Expectations* (Commonwealth Secretariat 2011); Hilary Charlesworth and Emma Larking, *Human Rights and the Universal Periodic Review: Rituals and Ritualism* (Cambridge University Press 2015)

There is a plethora of literature on Islamic law and jurisprudence, from a traditionalist and modernist perspective. Primary sources will include Qur'an, hadith and fiqh (jurisprudence) books.

2. Research Questions

- To what extent is the UPR an effective mechanism for the delivery of human rights protection?
- To what extent is the UPR, as a transparent political dialogue, useful for the engagement of Islamic law with the death penalty?
- Whether the UPR ask the right questions to influence the reduction of the death penalty in Islamic countries. Therefore, this research will challenge the efficacy



DEATH PENALTY

3. Methodology

The research will analyse Islamic member state reasons for the use of the death penalty within the UPR. It will provide an exegesis of sharia law, and present findings on the legitimacy of Islamic state religious interpretation to maintain the death penalty.

The work will then be used to determine, through an analysis of the UPR First and Second Cycles, whether the sovereign state discourse to maintain the death penalty is compatible with the international bill of rights, most relevant, the International Covenant on Civil and Political Rights, the UN Economic and Social Council's Safeguards against the use of the death penalty, and the General Assembly's bi-annual vote on the Resolution on the Moratorium on the use of the death penalty.

5. Impact on public policy, law and services:



Ultimately, the research will engage and contribute to the exegesis of punishment under Islamic Law, based on human rights principles. It will aim to influence government policy of Islamic states and result in a reduction of the death penalty.

- Legislative change, development of legal principle or effect on legal practice
- Shaping or influence on policy made by government, NGOs or private organisations
- Influencing the work of NGOs
- Improved public understanding of issues pertaining to Islamic law and international human rights