



***Murder and capital
punishment in
England and Wales***

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THE HOWARD LEAGUE FOR PENAL REFORM was formed in 1921 by the amalgamation of the Howard Association (founded in 1866) and the Penal Reform League (founded in 1907). It is a charitable organisation which exists to promote constructive proposals for the improvement of the penal system, to spread information about the way offenders are treated, and to encourage an understanding attitude towards prisons and prisoners based on facts rather than on emotional reactions.

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THE NATIONAL CAMPAIGN FOR THE ABOLITION OF CAPITAL PUNISHMENT was founded in 1955. Since the suspension of the death penalty in Great Britain the Campaign has been able to keep its activities to a minimum; but it remains in being against any possible attempt to reintroduce Capital Punishment, with office facilities provided by Christian Action.

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HISTORY

By 1868 the death penalty was restricted to the crime of murder, as then and since legally defined: the killing of a person with intention to kill or to cause grievous bodily harm. For over a century thereafter the only limitation on the death penalty was the exercise of the prerogative of mercy. In 1957 the Homicide Act created the two categories of capital and non-capital murder, only the former carrying the automatic death penalty (see below). By the Murder (Abolition of the Death Penalty) Act 1965 the capital penalty for murder was experimentally abolished, and in 1969 abolition was made permanent by resolution of both Houses of Parliament.

THE ATTEMPT TO MAKE DISTINCTIONS

Before 1957, all murder was capital, and a Judge was bound to pass sentence of death on a person convicted of murder unless the offender was under 18 or was an expectant mother. In practice the rigour of the law was mitigated by reprieves, and in 1955, the last year in which the death penalty was actually implemented under the old law, nearly two-thirds of those sentenced to death were reprieved. The Homicide Act 1957 created a separate category of capital murder, defined in s. 5 as follows:

- “(a) any murder done in the course or furtherance of theft;
- (b) any murder by shooting or by causing an explosion;
- (c) any murder done in the course or for the purpose of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody;
- (d) any murder of a police officer acting in the execution of his duty or of a person assisting a police officer so acting;
- (e) in the case of a person who was a prisoner at the time when he did or was a party to the murder, any murder of a prison officer acting in the execution of his duty or of a person assisting a prison officer so acting.”

For almost all other murder, the penalty became the fixed penalty of life imprisonment with the usual exception for persons under 18. The death penalty was, however, retained for a second conviction of murder done on a different occasion, both murders having been done in Great Britain. This could not, of course, be charged as capital murder, because the jury could not be told of the previous conviction.

The Act also limited the application of the death penalty by the introduction of the defence of “diminished responsibility” under section 2, which provided that the offence should be reduced to manslaughter if the offender “was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing”.

Thus many offences that would have been murder became manslaughter with a maximum penalty of life imprisonment. It is therefore impossible to make a direct comparison of murder statistics before and after the Homicide Act 1957; to attempt such a comparison, s.2 manslaughters have to be added to the murder figures after that date, but this rather overstates the "murder" rate, as some of these offences would probably have been reduced to manslaughter on other grounds.

However, the main encroachment on the death penalty was in its limitation to a small number of murders legally graded as "capital murder". In fact the introduction of different grades of murder was something the Royal Commission on Capital Punishment expressly concluded could not be done. If the difference between one type and another was so great that it involved life in one case and death in another, then a moral judgment was inevitably implied; if shooting became "capital" and poisoning did not, it would be assumed that the law regarded shooting as in some way worse.

The legislators at once accepted and rejected this argument. They accepted that the law could not grade murders by the degree of heinousness; but they decided all the same to create a distinction by making "capital" those murders regarded as more dangerous to social order.

The criterion was intended to be the deterrent effect on criminals: thus killing police or prison officers and killing while resisting arrest were included; murder in the course or furtherance of theft was included in the hope of deterring robbers from using personal violence; and murder by shooting was made capital in order to deter criminals from carrying guns.

But the two analyses undertaken by the Home Office, *Murder* (HMSO, 1961), and *Murder 1957 to 1968* (HMSO, 1969) have shown that shooting is mainly done by those who subsequently commit suicide, and by emotionally or mentally disturbed offenders, who are unlikely to be deterred by a rational consideration of the penalty. About one-third of all murder victims are killed by people who commit suicide or are found to be insane.

The provision relating to murder in the course or furtherance of theft also failed of its objective. It was an over-simplified distinction that left very great scope for legal argument.

The eminent lawyer Professor Glanville Williams has put the matter like this:

"In some instances one has the feeling that the element of theft is almost accidental. A man, having killed, may take his victim's purse; this is not capital murder unless there was an intention to steal the purse at the time of killing. This intention may be a matter of weak inference and even if there was a half-formed intention to steal at the time of the murder, it may not be the dominant reason which it may be impossible to unravel in the obscure workings of the mind. In

Regina v. Stokes, the murderer was a man who applied to an old lady for a job as a gardener, and asked for 4s. an hour. The lady said it was too much and offered 3s. 6d. She was kneeling to get tools out of the cupboard; the man hit her on the head with a hammer, and then stole a wallet which he found in the house. This was adjudged capital murder, and Stokes was hanged; but who can tell that the murder itself was not motivated by a sudden surge of resentment rather than by a calculated intention to steal? The ordinary man who wants to steal a few pounds will not kill in order to do so. It is a risk out of all proportion to the return".

Apart from the difficulty of defining the intention to steal, the provision was also anomalous in that many other murders for gain were excluded; for example, murder of a relative for the sake of an insurance policy or an inheritance was not capital.

The Home Office report *Murder 1957 to 1968* summed up as follows (para. 40):

"It is noteworthy that of the 69 men convicted from 1957 to 1964 (the last year in which executions were carried out) of murders for which gain was the motive, only 41 (60%) were convicted of capital murder. This result reflects the difficulty of applying a consistent and workable definition of murder in the course of theft, and suggests that juries were reluctant to convict of capital murder if they could find any possible grounds for a reduction to non-capital murder."

Generally, the attempt to make murder capital if it was in the course of other crime did not succeed. The same report says (para. 41) that there were as many "non-capital" as "capital" murderers who killed in the course of other crime, such as escaping from a penal institution, killing to prevent identification, or killing someone who intervened in an affray.

THE PRESENT POSITION

The controversy over capital punishment has arisen again, but with a difference. No one now is advocating a return to the pre-1957 position, when all murder attracted the death penalty and its incidence was mitigated only by reprieves.

It has been generally recognised that most murder is a matter of emotion and impulse, very largely within the family or among close associates, and therefore not subject to deterrence by calculation of the penalty. There is, however, much less agreement about capital punishment for certain specific types of murder, and there is a movement in favour of bringing it back for murder in the course of other crime, murder of a policeman, or murder with firearms.

FOR AND AGAINST: THE ARGUMENTS AND THE NEED FOR EVIDENCE

There are two principal arguments in favour, and two principal arguments against. On each side, one argument is moral and the other pragmatic.

The first argument of the "restorationists" is that of just retribution. A number of people believe that a man who commits a particularly heinous murder deserves to lose his own life and that society is right to kill him. This is in its way a respectable point of view if honestly held, and throughout most of history it would scarcely have been disputed. We do not agree with it; we believe that a civilised society should advance beyond such a crude idea of justice, in the same way as it has advanced beyond the retributive maiming and torture of criminals which were once equally universally accepted.

The second argument in favour which is more open to rational discussion, is that the death penalty is necessary as a deterrent. The statistical evidence gives no support to this theory, as will be shown later. In fact, it seems possible that some people who publicly proclaim it are really influenced by their belief in retribution, but realise that this is not a persuasive argument.

The abolitionist arguments are also of two kinds. Some people feel deeply, for religious or other reasons, that killing is unequivocally wrong, even if done legally. They hold that, if the murderer is wicked to kill, the State is also wicked to kill; and that two wrongs do not make a right. Other abolitionists do not go as far as this; they agree that judicial execution is barbarous, but if it were proved to be a deterrent they would not reject it in all circumstances. However, they would need very strong evidence that capital punishment was a unique deterrent in order to tolerate it. No such cogent evidence has ever been found and it does not seem likely that it ever will be, so that in practice there is no dispute among abolitionists. The Howard League represents varied points of view, and one important matter upon which we are all agreed is the danger of a miscarriage of justice when the penalty is irrevocable.

THE STATISTICAL EVIDENCE

The point in issue at the present time is not the re-introduction of the death penalty for all murder, nor is it the revival of the Homicide Act 1957, which everyone admits produced anomalous results and even created a sense of injustice because of the uncertainty of its operation. However, what is being proposed is something very like the Homicide Act; and the Home Secretary has challenged those who want to bring back selective capital punishment to invent a workable distinction if they can. Since the Royal Commission found the task impossible, it seems unlikely that any MP will succeed. But even if the selective definition could be made clear, certain and practicable, what would be achieved? On the retributive side, opinion polls have shown that there is no agreement among the

general public as to which types of murder should be capital; and on the deterrent side, there is no statistical evidence to support the theory of a unique deterrent for any of the categories under consideration.

To get the matter into perspective, it should be remembered that the numbers concerned are small in relation to the population. The figures shown in *Criminal Statistics 1972* as "crimes known to the police" corrected up to 31st December give 476 for all homicide (murder, manslaughter and infanticide) or 9.7 victims per million population. The victims of death by dangerous driving on the same basis number 753 or 15.4 per million population.

The annual figures for all murder are often quoted in the argument, but they are not very relevant, since nearly one-third of murderers commit suicide and a further number are found insane. Clearly capital punishment is not likely to deter people in such an abnormal mental state. In order to isolate the relevant statistics the Home Office statisticians used the category which they have rather unsatisfactorily labelled "normal" murder, to mean murders in which the suspect was not found insane and did not commit suicide, although he might nevertheless have had some mental illness. Unsolved murders are placed in this category, although some might well have proved to be in the abnormal category if they were cleared up.

Table 1 shows the numbers of each type of offence. Offences reduced to manslaughter by reason of diminished responsibility are included as well, because after 1957 this verdict tended to replace verdicts of "guilty but insane" and thus the figures of abnormal murder were artificially decreased.

Much has been made of the fact that there were many more "normal" murders at the end of the period than the beginning, but two points need to be made. The first is that the upward trend started in 1964, when there was a rise of 29% over 1963; two executions took place in 1964 and the law was not changed until November 1965, so that the rise could hardly be attributable to abolition. The second is that "normal" murder did not increase at anything like the rate for all indictable offences of violence against the person, of which the numbers known to the police were 10,960 in 1957 and 47,036 in 1971. There were no changes in the law to account for this.

CAN "NORMAL" MURDERERS BE DETERRED?

Murder while insane and murder combined with suicide are not actions susceptible to deterrence by rational considerations, and they are a medical and social problem rather than a legal one. The kind of murder lawyers and penologists are concerned to prevent is what we have called "normal" murder. How far this is preventable is also arguable. Most such murders are done on impulse, under the influence of rage, jealousy or other emotion. Even "murder for gain" can be a misleading description, because such acts

are frequently uncalculated: the robber does not usually set out intending to kill his victim, and most robberies in which firearms are carried do not result in any physical injury. The few deliberately calculated murders are probably planned by criminals who do not believe that they will be caught, and such men are unlikely to take the penalty into account. It does not appear, therefore, that setting a different penalty for murder is likely to affect its incidence. The most effective factor in preventing crime is the certainty of being caught, but deliberate murderers apparently disregard the fact that, unlike most other serious crime, murder has a very high detection rate. "Normal" murder has increased from 1964 onwards, but the pattern has not changed much. Murder for gain has increased less than murder arising from quarrels or jealousy; murder in the course of escaping or resisting arrest is still very rare; and it has already been pointed out that 40% of men convicted of murder for gain were convicted only of non-capital murder under the Homicide Act. The motives are set out below in Table 2, which also shows how very few murders took place in escaping or resisting arrest, either before or after abolition.

Similarly, Table 3 shows that murder of police or prison officers remains mercifully rare, and that most murder is of relations or close associates.

This analysis suggests that the increase in "normal" murder is part of a general increase in violent behaviour, in which offences that might have been limited to assault or wounding have got out of hand and gone further than intended. Any attempt at prevention must therefore be directed at the general prevention of violence, and it is a dangerous over-simplification to assume that this can be achieved by prescribing ever-increasing penalties, rather than tackling the fundamental causes.

MURDER BY SHOOTING

Murder by shooting needs special consideration, because of the public concern about the increase in the use of firearms in crime. But shooting is particularly characteristic of the impulsive or mentally unstable murderer, and very few murders in the course of other crime are caused by guns. Although guns are often used to threaten in robberies, they are seldom used to kill. For example, in 1971 there were 572 robberies known to the police in which firearms were used; in 558 there was no injury, in 10 there was slight injury and in 4, serious injury. Robberies causing death are recorded not as robbery but as murder, and the figures for murder in the course of theft are shown in Table 5 as ranging from 1 to 4 a year. It therefore appears likely that professional criminals (other than murderers) are on the whole deterred from using guns by the knowledge that the use of firearms will increase the sentence if the offender is caught. It therefore seems unlikely that the death penalty would be a greater deterrent than the present long period of imprisonment. Tables 4, 5 and 6 show the type of murder that is normally committed by shooting; they are taken from

tables produced by the Home Office. The numbers are so small that nothing can be said about trends; but it can be said that murder by shooting is a very small proportion of "normal" murder, and most of it is done on impulse. All criminals know that the sentence will be heavier if a gun is carried, and this in itself is a deterrent. Those few who plan a cold-blooded murder by shooting, as some professional criminals may do, would hardly do so unless they were convinced that they would get away with it and thus probably do not take the penalty into account.

THE UNITED KINGDOM AND OTHER COUNTRIES

All Western European countries except France and Spain, and a number of others, have abolished the death penalty, most of them many years ago. A number of comparisons have been made between abolitionist and retentionist countries, and in the same country before and after abolition, but no evidence has emerged to show that the murder rate was affected. The most notable studies are those by Professor Thorsten Sellin in the United States, in which he compared retentionist and abolitionist states, with the same negative result. Professor Sellin selected five sets of three states each and compared homicide death rates for a 43-year period. In each set at least one of the three states did not have the death penalty for all or part of the period, while the others did provide it. Each of the three states in each set borders on one or both of the other two, so as to minimize differences in possible other social factors affecting homicide rates. The figures show clearly that homicide death rates in all the states followed the same trends, whether or not the death penalty was in force. Comparisons of trends and rates reveal no differences among adjacent states with and without the death penalty which can be ascribed to either its presence or absence. Within each group of states it would be impossible to identify the abolitionist state, were it not designated as such.

The most comprehensive British review of the evidence is still that of the Royal Commission of 1949-53. In Canada a new Report was issued in 1972 by the Research Centre of the Department of the Solicitor General of Canada, entitled *A Study of the Deterrent Effect of Capital Punishment with special reference to the Canadian Situation*, by Professor Fattah of the Department of Criminology of the University of Montreal. Studies of homicides of police, and staff and inmates in prisons, are reviewed, and they are not found to lend support to the argument that capital punishment offers superior protection to policemen, prison guards or inmates. Turning to homicide generally, the report deals with a number of previous studies in other countries comparing homicide rates before and after abolition, and examines in great detail the statistics of each Canadian province. In 1961 murder was divided into capital and non-capital murder, and in 1963 capital punishment was in effect suspended by administrative

action. From 1968 onwards capital punishment was officially and legally suspended except for the murder of a "law officer, warden etc." The conclusion is that although there has been some increase in criminal homicide in Canada it cannot be attributed to the suspension of capital punishment. The reasons given are that the increase was lower than for other crimes of violence for which the penalty had not changed; there was no consistent trend; the trends in different provinces, all subject to the same changes in law and practice, were very different, and in some provinces there was actually a decrease.

These results are very similar to our own and to those in United States and elsewhere. It would indeed be strange if the United Kingdom were to go against all the evidence and all the experience of other countries and reintroduce the death penalty.

FURTHER READING

The literature on this subject is vast, going back at least to Sir Samuel Romilly, who succeeded from 1808 until his death in 1818 in getting the death penalty repealed for offences such as picking pockets, and opened the way for further reforms. This list, however, will be confined to twentieth-century publications (some of them have historical introductions for those interested). They are arranged in order of publication.

CALVERT (E.R.) The death penalty enquiry; being a review of the evidence before the Select Committee on Capital Punishment, 1930. London, 1931.

CALVERT (E.R.) Capital punishment in the twentieth century: 5th ed. revised by Theodora Calvert. London, 1936

TEMPLEWOOD *Viscount* The shadow of the gallows. London 1951

Royal Commission on Capital Punishment. Report (Cmd 8932) and minutes of evidence 1953

GARDINER (G.A.) Capital punishment as a deterrent; and the alternative. London, 1956.

The author, a prominent lawyer, refused to become a judge while capital punishment was still in force. He later became Lord Chancellor.

GOWERS (Sir E.A.) A life for a life? The problem of capital punishment. London, 1956.

The author was chairman of the 1953 Royal Commission. He began as a "retentionist" but the evidence led him to change his view.

KOESTLER (A.) and HEWITT (C.R.) Hanged by the neck; an exposure of capital punishment in England. By A. Koestler and C.H. Rolph (pseud). (Penguin special, S 197) (Harmondsworth, 1961).

TUTTLE (Mrs. E) The crusade against capital punishment in Great Britain. (Library of criminology no. 4) London, 1961.

DUFF (C.) A handbook on hanging . . . (Rev. and enl. ed.) London, (1961) A satirical exposition of the inconsistencies and gruesome occurrences inseparable from execution by hanging.

HALE (L.) Hanged in error. Harmondsworth: Penguin, 1961.

KENNEDY (L.) Ten Rillington Place. London: Gollancz, 1961.

MORRIS (T.P.) and BLOM-COOPER (L.) Murder in microcosm. London: The Observer, 1961.

TUTTLE (Mrs. E) The crusade against capital punishment in Great Britain. (Library of criminology no. 4) London, 1961.

COUNCIL OF EUROPE European Committee on Crime Problems. The death penalty in European countries (ed. by Marc Ancel). Strasbourg, 1962. also: developments 1961-1965 (1967).

JOYCE (J.A.) The right to life; a world view of capital punishment. London, 1962.

MORRIS (T.P.) and BLOM-COOPER (L.) (1964) A Calendar of Murder. London: M. Joseph. Summaries of 764 cases of alleged murder, 1957-1962.

SELLIN (T.) Capital punishment. New York: Harper & Row, 1967. Shows, among other things, that "abolitionist" cities in the U.S. have, if anything, marginally fewer fatal attacks on police, than "retentionist" ones; small cities were slightly better than large ones, whether or not they had abolished the death penalty.

NEW ZEALAND. Department of Justice. Crime in New Zealand. Wellington: Government Printer, 1968.

BLOM-COOPER (L.) ed. The hanging question: essays on the death penalty: London: published on behalf of the Howard League for Penal Reform by Duckworths, 1969.

GIBSON (E.) and KLEIN (S.) Murder 1957-1968. (Home Office Research Studies, 3.) London: H.M.S.O., 1969.

HUGHES (Emrys) Sydney Silverman: rebel in Parliament. London: C. Skilton, 1969.

The abolition of the death penalty was one of Silverman's major campaigns.

WASHINGTON RESEARCH PROJECT (1971). The case against capital

punishment. W.R.P. 1823 Jefferson Place, N.W., Washington D.C. 20036.
Pamphlet.

FATTAH, E.A. (1972) A study of the deterrent effect of capital punishment with special reference to the Canadian situation. (Department of the Solicitor General, Canada, Research Centre Report 2) Ottawa: Information Canada.
A thorough summary of the known facts, based on research in many parts of the world.

BEDAU, H.A. (1973) The case against the death penalty. American Civil Liberties Union, 22 East 40th Street, New York, NY 10016.
A concise statement of the case, by a prominent American campaigner.

CRIMINAL LAW REVISION COMMITTEE (1973) Penalties for murder. Interim Report (Cmd. 5184) London: HMSO

UNITED NATIONS Economic and Social Council (1973). Capital punishment: report of the Secretary General. (E/5242, 23rd February 1973)
An impartial survey of the current position, world-wide, including abolition and re-introduction since 1965.

For those who wish to pursue the subject in more detail in the criminological journals, references can be found in *Abstracts in Criminology and Penology*; two examples are:

BARBER (R.N.) and WILSON (P.R.) Deterrent effect of capital punishment and its effect on conviction rates: the Queensland experience. *Austr. & N.Z. J. Criminology*, 1968, 1 (2), 100-108 (but see also pp. 183-184).
Authors' summary: Capital punishment was found to act no better as a deterrent to murder in Queensland than the mandatory sentence of life imprisonment. However, it did seem to produce a reluctance of juries to convict in capital cases.

SAMUELSON (G.W.) Why was capital punishment restored in Delaware? *J. crim. Law, Criminology and Police Science*, 1969, 60, 148-151.
The death penalty was abolished in Delaware in 1958, but reintroduced in 1961. Murder rates fell slightly during abolition.

The debates on the final abolition in 1969 are contained in:

ABOLITION of death penalty (Debates.)

Hansard (H.C.) 1969, 793 (35), Dec. 15, col. 939-1062.

(36-7), Dec. 16-17, col. 1148-1298

Hansard (H.L.) 1969, 306 (25-26), Dec. 17-18, col. 1106-1257; 1264-1321.

APPENDIX A

We are grateful to the Home Office for help in compiling these tables

TABLE 1

Numbers of victims of "normal" and abnormal murder and s.2 manslaughter

	Murder			Total	s.2	Total
	"Normal"	Abnormal				
		Suspect committed suicide	Suspect insane			
				Manslaughter (diminished responsibility)	abnormal homicide	
1957	57	55	23	135	22	100
1958	47	44	23	114	29	96
1959	57	50	28	135	21	99
1960	51	45	27	123	31	103
1961	54	42	22	118	30	94
1962	56	57	16	129	42	115
1963	59	48	15	122	56	119
1964	76	49	10	135	35	94
1965	77	50	8	135	50	108
1966	88	29	5	122	65	99
1967	90	52	12	154	57	121
1968	96	45	7	148	57	109
1969	80	28	10	118	64	102
1970	112	19	4	135	66	89
1971	118	40	15	173	77	132
1972	113	26	10	149	95	131

TABLE 2

"Normal" Murder (excluding offences not yet cleared up)

Motive

	Rage, quarrel, jealousy, revenge or sex	Theft or Other Gain	Escaping or Resisting arrest	Other	Apparently Motiveless	Not Known	Total
1957	22	9	—	2	7	—	40
1958	22	7	—	3	—	—	32
1959	37	6	1	2	—	—	46
1960	28	9	1	2	3	1	44
1961	34	6	—	3	—	1	44
1962	30	8	—	2	3	—	43
1963	35	6	—	1	—	—	42
1964	35	9	—	7	2	—	53
1965	47	6	1	3	2	3	62
1966	35	15	5	7	2	2	66
1967	53	10	1	2	3	3	72
1968	52	17	—	4	6	—	79
1969	45	26	—	2	1	1	75
1970	67	19	—	6	3	—	95
1971	55	19	2	11	4	—	91
1972	59	22	1	15	—	—	97

TABLE 3

"Normal" Murder (excluding offences not yet cleared up)

Relationship of victim to suspect

	Family or other close relationship	Acquaintance or associate	Police or prison officer	Stranger	Total
1957	12	15	—	13	40
1958	13	9	1	9	32
1959	19	13	1	13	46
1960	14	16	1	13	44
1961	20	7	—	17	44
1962	23	10	—	10	43
1963	19	11	—	12	42
1964	20	23	—	10	53
1965	22	24	2	14	62
1966	20	24	4 (a)	18	66
1967	31	27	—	14	72
1968	34	21	—	24	79
1969	18	37	—	20	75
1970	27	44	1	23	95
1971	38	24	2	27	91
1972	25	28	1	43	97

(a) Three police officers killed in one accident

TABLE 4

Numbers of victims of murder by shooting

	"Normal" murder			Abnormal murder	Total
	Cleared up	Not cleared up	Total		
1960	3	—	3	14	17
1961	2	—	2	11	13
1962	2	—	2	14	16
1963	2	—	2	7	9
1964	3	—	3	7	10
1965	8	2	10	13	23
1966	8	2	10	7	17
1967	8	2	10	21	31
1968	10	—	10	16	26
1969	6	1	7	4	11
1970	8	1	9	7	16
1971	7	—	7	16	23
1972	9	1	10	6	16

TABLE 5

Numbers of victims of "normal" murder by shooting
(excluding offences not yet cleared up)

Motive

	Rage, quarrel, jealousy, revenge or sex	Theft or Other Gain	Escaping or Resisting arrest	Other	Apparently motiveless	Total
1960	1	2	—	—	—	3
1961	1	—	—	1	—	2
1962	—	2	—	—	—	2
1963	2	—	—	—	—	2
1964	2	1	—	—	—	3
1965	6	1	—	1	—	8
1966	2	2	3 (a)	1	—	8
1967	5	1	—	—	2	8
1968	6	2	—	1	1	10
1969	3	3	—	—	—	6
1970	4	4	—	—	—	8
1971	1	3	2	1	—	7
1972	5	2	1	1	—	9

(a) see note (a), Table 3

TABLE 6

Numbers of victims of "normal" murder by shooting
(excluding offences not yet cleared up)

Relationship of victim to suspect

	Family or other close relationship	Acquaintance or associate	Police or prison officer	Stranger	Total
1960	—	1	—	2	3
1961	—	1	—	1	2
1962	—	—	—	2	2
1963	1	1	—	—	2
1964	2	—	—	1	3
1965	3	2	—	3	8
1966	1	1	3 (a)	3	8
1967	2	5	—	1	8
1968	4	4	—	2	10
1969	—	4	—	2	6
1970	1	4	1	2	8
1971	2	—	2	3	7
1972	1	4	1	3	9

(a) See note (a), Table 3.

APPENDIX B

CAPITAL PUNISHMENT IN OTHER COUNTRIES

- A** Abolitionist by law
AO Abolitionist by law for ordinary crimes only
AC Abolitionist by custom
R Retentionist
D Country divided on the issue (some States are abolitionist, others retentionist)

Dates in bracket are those of abolition

Afghanistan	AO	Dominican Republic	Kenya	R	
Albania	R	(1924)	A	Khmer Republic	R
Algeria	R	Ecuador (1897)	A	Kuwait	R
Argentina	R	Egypt	R	Laos	R
c.p. abol. in		El Salvador	R	Lebanon	R
1922 rest'd 1971		Equatorial Guinea	R	Lesotho	R
Australia (a)	D	Ethiopia	R	Liberia	R
Austria (1945)	A	Federal Republic of		Libyan Arab Republic	R
c.p. abol. in		Germany (1949)	A	Liechtenstein	AC
1919 rest'd 1934		Fiji	R	(last exec 1798)	
Bahrain	R	Finland (1949)	A	Luxembourg	AC
Barbados	R	France	R	Madagascar	R
Belgium last exec 1863	AC	Gabon	R	Malawi	R
Bhutan	R	Gambia	R	Malaysia	R
Bolivia	R	Ghana	R	Maldives	R
Botswana	R	Greece	R	Mali	R
Brazil (1890)	AO	Guatemala	R	Malta (1971)	AO
Bulgaria	R	Guinea	R	Mauritania	R
Burma	R	Guyana	R	Mauritius	R
Burundi	R	Haiti	R	Mexico (c)	D
Byelorussian SSR	R	Honduras	R	Mongolia	R
Cameroon	R	Hungary	R	Morocco	R
Canada (b)		Iceland (1928)	A	Nepal (1931)	AO
Central African Republic	R	India	R	Netherlands (1870)	AO
Chad	R	Indonesia	R	last exec 1860	
Chile	R	Iran	R	New Zealand (1961)	AO
China	R	Iraq	R	cp abol. in 1941	
Colombia (1910)	A	Ireland	R	rest'd 1950	
Congo	R	Israel (1954)	AO	Nicaragua	AC
Costa Rica (1882)	A	Italy (1944)	AO	Niger	R
Cuba	R	cp abol. 1890		Nigeria	R
Cyprus	R	rest'd 1931		Norway (1905)	AO
Czechoslovakia	R	last exec 1876		last exec 1876	
Dahomey	R	Ivory Coast	R	Oman	R
Democratic Yemen	R	Jamaica	R	Pakistan	R
Denmark (1930)	AO	Japan	R	Panama (1903)	AO
last exec 1892		Jordan	R		

Paraguay	R	Sri Lanka	R	Uganda	R
Peru (1971)	AO	Sudan	R	Ukrainian SSR	R
Philippines	R	Swaziland	R	USSR	R
Poland	R	Sweden (1921)	AO	United Arab Emirates	R
Portugal (1867)	AO	last exec 1910		United Kingdom (1969)	AO
Qatar	R	Switzerland (1937)	A	United Rep of Tanzania	R
Romania	R	cp abol. 1874,		United States of	
Rwanda	R	limited restoration		America (d)	D
Saudia Arabia	R	1879		Upper Volta	R
Senegal	R	Syrian Arab Republic	R	Uruguay (1907)	A
Sierra Leone	R	Thailand	R	Venezuela (1863)	A
Singapore	R	Togo	R	Yemen	R
Somalia	R	Trinidad & Tobago	R	Yugoslavia	R
South Africa	R	Tunisia	R	Zaire	R
Spain	R	Turkey	R	Zambia	R

- (a) Australia — two abolitionist states out of six
- (b) Canada — had temporarily abolished capital punishment from 1967 to 1972, with few exceptions, as a trial period before voting on retaining or definitely abolishing the death penalty. The matter is again before Parliament and another five-year ban period will be requested by the Government.
- (c) Mexico — 29 abolitionist states and territories out of 32.
- (d) United States of America — the Supreme Court ruled in 1971 that capital punishment was unconstitutional because of the unfairness in its application. To what extent this decision limits the use of the death penalty is not clear yet. Some states have already established the death penalty on a mandatory basis. The Supreme Court's decision seems to allow the death penalty only on a mandatory basis.

Information from United Nations Economic and Social Council, *Capital Punishment: Report of the Secretary General (E/5242, 23 February 1973)*, supplemented from the Report of the Department of the Solicitor General of Canada, the United Nations Report *Capital Punishment (1962)*, and the Royal Commission on Capital Punishment 1949-53.

END