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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Question of the death penalty

Report of the Secretary-General

Summary

Pursuant to Human Rights Council decision 18/117, the present report is submitted to update previous reports on the question of the death penalty. In the report, the Secretary-General reaffirms the general trend towards universal abolition of the death penalty and highlights initiatives limiting its use and implementing safeguards guaranteeing the protection of the rights of those facing this penalty. Between July 2022 and June 2024, a minority of States continued to implement the death penalty, with some increasing their use considerably. Pursuant to Council resolution 22/11, the report includes information on the human rights of children of parents sentenced to the death penalty or executed.



I. Introduction

1. Pursuant to Human Rights Council decision 18/117, the present report is submitted to update previous reports on the question of the death penalty, including the quinquennial report of the Secretary-General.¹ Pursuant to Council resolution 22/11, the report includes information on the human rights of children of parents sentenced to death or executed.

2. The report covers the period from July 2022 to June 2024. It is based largely on a call for inputs circulated to States, national human rights institutions, United Nations entities, international and regional intergovernmental bodies and non-governmental organizations.² Attention is also drawn to the report on a moratorium on the use of the death penalty submitted by the Secretary-General to the General Assembly at its seventy-ninth session, in which he outlines efforts made towards the implementation of Assembly resolution 77/222.

II. Changes in law and in practice

A. Abolition of the death penalty or initiatives towards its abolition, including establishing a moratorium on executions

3. The Human Rights Committee has stated that article 6 (6) of the International Covenant on Civil and Political Rights reaffirms that States parties that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, de facto and de jure, in the foreseeable future. According to the Committee, the death penalty cannot be reconciled with full respect for the right to life, and abolition of the death penalty is both desirable and necessary for the enhancement of human dignity and the progressive development of human rights.³

4. Some 170 States have abolished, or introduced a moratorium on, the death penalty either in law or in practice or have ceased executions for more than 10 years. In their submissions for the present report, several States described their process of and support for abolition.

5. Considerable progress was made towards the abolition of the death penalty during the reporting period. In December 2022, with 125 votes in favour, the General Assembly adopted resolution 77/222, calling on States to establish a moratorium on executions with a view to abolishing the death penalty. Ghana, Liberia and Uganda voted in favour of the resolution; that was the first time they had supported a resolution calling for a moratorium on the use of the death penalty. This was the largest majority in favour of a resolution calling for a moratorium on the use of the death penalty since the first such resolution was put to a vote in 2007.

6. Momentum towards abolition in sub-Saharan Africa continued, with Equatorial Guinea⁴ and Zambia⁵ abolishing the death penalty for all crimes. Ghana abolished the death penalty for all crimes except high treason.⁶

¹ E/2020/53.

² Submissions available at <https://www.ohchr.org/en/calls-for-input/2024/call-inputs-secretary-generals-report-question-death-penalty-51st-session-hrc>. Due to the lack of official data, the report also relies on open source information, including from news sources and non-governmental organizations.

³ Human Rights Committee, general comment No. 36 (2018), para. 50.

⁴ See <https://www.pdgc-guineaecuatorial.com/la-pena-de-muerte-queda-abolida-en-la-republica-de-guinea-ecuatorial/> (in Spanish).

⁵ See <https://news.un.org/en/story/2023/01/1132212>; and https://www.parliament.gov.zm/sites/default/files/images/publication_docs/FINAL%202023%20National%20Values%20Speech%20February%2C%202023.pdf.

⁶ See <https://deathpenaltyproject.org/press-release-ghana-abolishes-the-death-penalty/>; and <https://www.africa-legal.com/news-detail/ghana-joins-move-to-abolish-death-penalty/#:~:text=In%20a%20significant%20step%2C%20Ghana's,high%20treason%2C%20writes%20>

7. Various domestic processes towards abolition of the death penalty were initiated or are ongoing. In Liberia, the Senate adopted a bill to abolish the death penalty, which is currently under consideration by the House of Representatives.⁷ In Kenya, the National Assembly completed its first reading of a bill that would amend the country's Penal Code to abolish the death penalty.⁸ In Zimbabwe, the Cabinet approved an abolition bill that will next be considered by Parliament.⁹ In Côte d'Ivoire, the Senate adopted a law authorizing the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.¹⁰ In the context of the Human Rights 75 initiative, Liberia pledged to abolish the death penalty and ratify the Second Optional Protocol to the Covenant by 31 October 2024.¹¹ Chad, the Congo and Côte d'Ivoire also made formal pledges, in the context of the initiative, to ratify the Second Optional Protocol to the Covenant by the end of December 2024.¹²

8. Armenia ratified Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the Abolition of the Death Penalty in All Circumstances, signalling its intention to abolish the death penalty in all circumstances. Azerbaijan signed the same Protocol.¹³ Pakistan abolished the death penalty for the crime of railway sabotage and for drug-related offences.¹⁴ The President of Sri Lanka informed the Supreme Court that he would not approve the execution of the death penalty in Sri Lanka for any offence.¹⁵

9. Important developments also occurred at the sub-State level. In the United States of America, the Governor of the state of Washington signed legislation removing the death penalty from the state's laws.¹⁶ The House Judiciary Committee in the state of Pennsylvania voted in favour of a bill to repeal the death penalty in October 2023, a first step towards abolition in that state.¹⁷

10. On 28 February 2023, the Human Rights Council held its biennial high-level panel discussion on the question of the death penalty, focusing on limiting the death penalty to the most serious crimes. During the discussion, the United Nations High Commissioner for Human Rights called on States that had not yet done so to establish moratoriums on the death penalty and work towards abolition.¹⁸

11. During the universal periodic review process of the Human Rights Council, States made numerous recommendations to retentionist States. These included recommendations to

20Marian%20Anseh.&text=This%20decision%20positions%20Ghana%20as,it%20still%20stands%20for%20treason.

⁷ See https://www.eeas.europa.eu/delegations/liberia/european-union-and-its-member-states-welcome-steps-taken-government-liberia-and-senate-towards-legal_en?s=104; and <https://elbcradio.com/2022/08/11/rescue-alternative-liberia-wants-house-of-rep-concur-with-senate-on-passage-of-death-penalty-abolition-bill/>.

⁸ See <https://icj-kenya.org/news/pressure-mounts-for-kenya-to-abolish-death-penalty/>.

⁹ See <https://deathpenaltyproject.org/zimbabwes-cabinet-backs-proposed-legislation-to-abolish-the-death-penalty/>; and <https://www.hrw.org/news/2024/02/15/zimbabwe-considers-abolishing-death-penalty>.

¹⁰ See <http://fiacat.org/presse/communiqués-de-presse/3146-communication-op2-rci> (in French).

¹¹ See https://www.ohchr.org/sites/default/files/udhr/publishingimages/75udhr/Liberia_EN.pdf.

¹² See https://www.ohchr.org/sites/default/files/udhr/publishingimages/75udhr/Chad_FR.pdf; https://www.ohchr.org/sites/default/files/udhr/publishingimages/75udhr/Republic%20of%20Congo_FR.pdf; and <https://www.ohchr.org/sites/default/files/udhr/publishingimages/75udhr/cote-d-ivoire-fr.pdf> (all in French).

¹³ See <https://www.coe.int/en/web/portal/-/armenia-becomes-45th-member-state-to-abolish-the-death-penalty-in-all-circumstances>.

¹⁴ See https://jpp.org.pk/wp-content/uploads/2023/10/JPP_DP_REPORT_23-.pdf.

¹⁵ See <https://www.ft.lk/front-page/President-informs-court-his-signature-will-not-be-used-to-execute-death-sentence/44-739349>.

¹⁶ See <https://deathpenaltyinfo.org/news/washingtons-unconstitutional-death-penalty-law-stricken-from-the-books>.

¹⁷ See <https://deathpenaltyinfo.org/news/pennsylvania-house-committee-passes-death-penalty-repeal-bill>.

¹⁸ See <https://www.ohchr.org/en/news/2023/02/high-commissioner-human-rights-calls-states-have-not-yet-done-so-establish-moratoriums>.

ratify or consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty,¹⁹ to take appropriate measures to abolish the death penalty,²⁰ to commute all effective death sentences to alternative sentences,²¹ to introduce an official moratorium on executions with a view towards abolition,²² to renounce all action to extend the death penalty,²³ to abolish the penalty for drug-related crimes,²⁴ to publish annual data on the death penalty as a first step towards abolition,²⁵ to end the death penalty for non-violent offences such as blasphemy²⁶ and to end the death penalty for children and persons with disabilities.²⁷

12. Of the currently retentionist States receiving such recommendations, Israel accepted a recommendation to consider ratifying the Second Optional Protocol to the Covenant²⁸ and Peru supported recommendations made to it regarding the death penalty.²⁹

B. Restrictions on the use and scope of the death penalty or limitations of its use

13. Effective 1 January 2023, the state of California, United States of America, retroactively applied its Racial Justice Act of 2020 to prisoners sentenced to death, allowing them to challenge convictions obtained or sentences tainted by considerations of race, ethnicity or national origin.³⁰

C. International and regional instruments contributing to the abolition of the death penalty

14. At the time of writing, 91 States had deposited their instruments of ratification or accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.³¹

¹⁹ For example, [A/HRC/52/4](#), paras. 124.4–124.9; [A/HRC/52/8](#), paras. 140.1–140.5, 140.78 and 140.83; [A/HRC/53/8](#), paras. 111.1 and 111.2; [A/HRC/53/9](#), paras. 90.3–90.6, 90.8, 90.10 and 90.11; [A/HRC/53/11](#), paras. 139.8–139.18, 139.22 and 139.25; [A/HRC/53/13](#), paras. 46.19 and 46.21–46.25; [A/HRC/54/6](#), paras. 91.14, 91.18, 91.21, 91.22 and 91.71; [A/HRC/54/8](#), paras. 135.1–135.12; [A/HRC/54/9](#), paras. 137.6–137.11; [A/HRC/54/10](#), paras. 122.10–122.14; and [A/HRC/54/16](#), paras. 39.9, 39.10 and 39.72.

²⁰ For example, [A/HRC/52/4](#), paras. 124.5–124.7, 124.9, 124.70–124.76; [A/HRC/52/8](#), paras. 140.75–140.78, 140.80–140.86 and 140.220; [A/HRC/53/13](#), para. 46.23, 46.25, 46.97, 46.100, 46.107 and 46.109; [A/HRC/54/8](#), paras. 135.2–135.4 and 135.6–135.15; [A/HRC/54/9](#), paras. 137.7, 137.103, 137.107, 137.108, 137.113, 137.114 and 137.116; and [A/HRC/54/10](#), paras. 122.61 and 122.62.

²¹ For example, [A/HRC/52/4](#), paras. 124.5, 124.78 and 124.82; [A/HRC/52/8](#), paras. 140.87–140.89; and [A/HRC/54/8](#), paras. 135.3 and 135.4.

²² For example, [A/HRC/52/4](#), paras. 124.81–124.84, 124.86 and 124.90; [A/HRC/52/8](#), paras. 140.2, 140.75–140.78 and 140.83; [A/HRC/53/13](#), paras. 46.19, 46.23, 46.24, 46.96–46.99, 46.101, 46.103 and 46.107; [A/HRC/54/6](#), paras. 91.71–91.73, 91.79 and 91.84; [A/HRC/54/9](#), paras. 137.105, 137.106, 137.111 and 137.115; [A/HRC/54/10](#), para. 122.67; and [A/HRC/54/16](#), paras. 39.69, 39.72 and 39.73.

²³ For example, [A/HRC/54/16](#), paras. 39.70 and 39.74–39.76.

²⁴ For example, [A/HRC/52/4](#), para. 124.87; [A/HRC/52/8](#), paras. 140.84–140.86; and [A/HRC/53/13](#), paras. 46.98 and 46.102.

²⁵ For example, [A/HRC/52/8](#), para. 140.88.

²⁶ For example, [A/HRC/53/13](#), para. 46.54.

²⁷ For example, *ibid.*, para. 46.95.

²⁸ [A/HRC/54/16](#), para. 39.72; and [A/HRC/54/16/Add.1](#).

²⁹ [A/HRC/53/8/Add.1](#).

³⁰ See https://www.ospd.ca.gov/wp-content/uploads/2023/06/AB-256-Racial-Justice-Act-retroactivity_Accessible.pdf.

³¹ See https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4&clang=_en.

15. The human rights treaty bodies encouraged States to consider ratifying or acceding to the Second Optional Protocol to the Covenant, including Egypt,³² Lesotho,³³ Morocco,³⁴ the Russian Federation,³⁵ Singapore,³⁶ Sri Lanka,³⁷ Trinidad and Tobago³⁸ and Tunisia.³⁹ The treaty bodies also invited States, including Egypt,⁴⁰ Lesotho,⁴¹ Singapore,⁴² Trinidad and Tobago⁴³ and the United States of America,⁴⁴ to consider declaring a moratorium on the use of the death penalty with a view to its abolition.

16. In November 2022, the African Commission on Human and Peoples' Rights passed a resolution on the death penalty and the prohibition of torture and ill-treatment. In the resolution, the Commission urged States parties to the African Charter on Human and Peoples' Rights that maintain the death penalty to commute death sentences for all persons currently on death row and to take steps towards abolishing the death penalty, including ratification of the Second Optional Protocol to the Covenant, and to support the adoption by the African Union of the draft protocol to the African Charter on the abolition of the death penalty in Africa. In the resolution, the Commission also urged States parties that had imposed a moratorium on executions to take other concrete legislative measures for the total abolition of the death penalty.⁴⁵

17. In June 2023, the Inter-American Commission on Human Rights condemned the execution of Michael Tisius, carried out in the United States of America, despite the Commission having granted precautionary measures in the case. The Commission regretted that it had been deprived of the opportunity to reach a decision on the prisoner's petition, which had alleged violations of his right to a fair trial.⁴⁶

18. The Special Rapporteur on the situation of human rights in Belarus expressed concern that Belarus remained the only country in Europe that applied the death penalty and enforced it regularly. The Special Rapporteur pointed out that Belarus had violated all the interim measures of the Human Rights Committee in relation to its enforcement of capital punishment.⁴⁷

D. Reintroduction of the use of the death penalty, extension of its scope or resumption of executions

19. According to the Human Rights Committee, States parties to the International Covenant on Civil and Political Rights that have abolished the death penalty, whether by amending their domestic laws, becoming parties to the Second Optional Protocol to the Covenant or adopting another international instrument obligating them to abolish the death penalty, are barred from reintroducing it. The Committee has noted that the Second Optional Protocol, like the Covenant, does not contain termination clauses and States parties cannot denounce it, and that abolition of the death penalty is therefore legally irrevocable. Furthermore, States parties to the Covenant may not transform into a capital offence any offence that, at the time of ratification or subsequently, did not entail the death penalty.⁴⁸ The

³² CAT/C/EGY/CO/5, para. 38 (a).

³³ CCPR/C/LSO/CO/2, para. 26 (b).

³⁴ CAT/C/MAR/CO/4, para. 21.

³⁵ CRC/C/RUS/CO/6-7, para. 51 (c).

³⁶ CRPD/C/SGP/CO/1, para. 20.

³⁷ CCPR/C/LKA/CO/6, para. 25.

³⁸ CCPR/C/TTO/CO/5, para. 30 (c).

³⁹ CEDAW/C/TUN/CO/7, para. 70.

⁴⁰ CAT/C/EGY/CO/5, para. 38 (a).

⁴¹ CCPR/C/LSO/CO/2, para. 26 (a).

⁴² CEDAW/C/SGP/CO/6, para. 18 (a).

⁴³ CCPR/C/TTO/CO/5, para. 30 (c).

⁴⁴ CCPR/C/USA/CO/5, para. 31 (a).

⁴⁵ See <https://achpr.au.int/index.php/en/adopted-resolutions/544-resolution-death-penalty-and-prohibition-torture-and-cruel>.

⁴⁶ See https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/124.asp.

⁴⁷ A/HRC/53/53, paras. 92 and 93.

⁴⁸ General comment No. 36 (2018), para. 34.

Committee has stated that it is contrary to the object and purpose of article 6 of the Covenant for States parties to take steps to increase de facto the rate of use of and the extent to which they resort to the death penalty.⁴⁹

20. During the reporting period, the Committee against Torture expressed concern about the growing number of cases in which the death penalty was imposed and carried out in Egypt.⁵⁰ The Special Rapporteur on the human rights situation in the Islamic Republic of Iran expressed alarm at the sharp increase in executions in that country, in particular the exponential surge in the execution of drug offenders and the resumption of public executions.⁵¹ Several legislative attempts to reinstate the death penalty in the Philippines were also criticized.⁵²

21. Also during the reporting period, there was a steady increase in the number of people known to have been executed worldwide, despite the decrease in the number of countries carrying out executions. Amnesty International recorded 883 executions in 20 countries in 2022, marking a 53 per cent increase from 2021.⁵³ In 2023, it recorded 1,153 executions in 16 countries, reflecting a 31 per cent increase from 2022 and the highest number of executions it had recorded over the previous eight years, despite also reflecting the lowest number of executing countries it has ever recorded.⁵⁴ These figures reflect a global trend whereby a diminishing number of retentionist countries are substantially increasing the number of executions.⁵⁵

22. According to Amnesty International, the sharp increase in executions in 2022 was due primarily to the rise in the number of known executions in the Middle East and North Africa, which went up by 59 per cent compared to 2021. Executions in the Middle East and North Africa accounted for 93 per cent of known global executions in 2022. Of those, 70 per cent were carried out in the Islamic Republic of Iran and 24 per cent in Saudi Arabia.⁵⁶

23. This trend appears to have further sharpened, with Amnesty International reporting a 48 per cent increase in recorded executions in the Islamic Republic of Iran in 2023. It reported that the Islamic Republic of Iran alone accounted for 74 per cent of all recorded executions worldwide in 2023, and Saudi Arabia for 15 per cent.⁵⁷

24. Global data from other sources appear to support this assessment. In early May 2023, the United Nations High Commissioner for Human Rights expressed dismay at the “frightening” number of executions that had taken place in the Islamic Republic of Iran since the beginning of the year, with an average of more than 10 people executed each week during that period. Most executions were for drug-related offences and a disproportionately high number of those executed were members of minority groups.⁵⁸ Special procedure mandate holders of the Human Rights Council also condemned this spate of executions.⁵⁹ On 24 January 2024, the High Commissioner expressed alarm that at least 54 people had reportedly been executed in the Islamic Republic of Iran in January 2024 alone.⁶⁰

25. In November 2022, the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported that executions had taken place almost daily over the course of two weeks in Saudi Arabia after the authorities ended a 21-month unofficial moratorium on

⁴⁹ Ibid., para. 50.

⁵⁰ CAT/C/EGY/CO/5, para. 37.

⁵¹ A/HRC/52/67, para. 63.

⁵² CCPR/C/PHL/CO/5, para. 25.

⁵³ See <https://www.amnesty.org/en/latest/news/2023/05/death-penalty-2022-executions-skyrocket/#tab-global-facts>.

⁵⁴ Amnesty International, “Global report: death sentences and executions 2023” (London, 2024), p. 9.

⁵⁵ Ibid., p. 7.

⁵⁶ Amnesty International, “Global report: death sentences and executions 2022” (London, 2023), p. 7.

⁵⁷ Amnesty International, “Global report: 2023”, p. 9.

⁵⁸ See <https://www.ohchr.org/en/press-releases/2023/05/iran-frightening-number-executions-turk-calls-end-death-penalty>.

⁵⁹ See <https://www.ohchr.org/en/press-releases/2023/05/iran-un-experts-condemn-recent-executions-urge-moratorium-death-penalty>.

⁶⁰ See <https://www.ohchr.org/en/press-releases/2024/01/iran-sharp-spike-use-death-penalty>.

the use of the death penalty for drug-related offences. Seventeen men were executed between 10 and 22 November 2022 for drug and contraband offences.⁶¹

26. Executions resumed in Kuwait in 2022 and in the State of Palestine, for the first time since 2017.⁶² The death row population in Pakistan increased significantly in 2023, with 6,039 individuals reportedly on death row, nearly double the 3,831 reported in 2022.⁶³ In December 2022, OHCHR reported that the Taliban de facto authorities in Afghanistan had resumed executions, including public executions.⁶⁴

27. In a number of States, parliamentary and judicial processes have led to regressive changes regarding the death penalty. Belarus amended its Criminal Code to introduce the death penalty for State officials and military personnel convicted of high treason⁶⁵ and executed one man during the reporting period.⁶⁶

28. In 2023, Uganda adopted the Anti-Homosexuality Act which, among other serious flaws, prescribes the death penalty for several acts classified as “aggravated homosexuality”.⁶⁷ The United Nations High Commissioner for Human Rights expressed dismay at the decision of the Constitutional Court of Uganda to uphold that law against constitutional challenges and urged the authorities to repeal it.⁶⁸

29. In Iraq, the authorities carried out the mass execution of 13 people in Nasiriyah Central Prison without prior notice.⁶⁹ Shortly thereafter, several special procedure mandate holders expressed deep concern at reports that Iraq had begun mass executions in its prison system, noting that over 250 people might be at risk of imminent execution.⁷⁰

30. In the Philippines, six bills are pending in the House of Representatives to reintroduce the death penalty, including as a punishment for high-level drug traffickers.⁷¹ In Guyana, the Court of Appeal upheld the constitutionality of the death penalty,⁷² while in Trinidad and Tobago, the Judicial Committee of the Privy Council upheld the mandatory death penalty.⁷³

31. On 15 March 2024, the Democratic Republic of the Congo lifted its moratorium on the death penalty, citing the need to rid its army of traitors and curb the resurgence of terrorism and banditry.⁷⁴ It indicated that capital punishment would be applied in a wide range of contexts, including times of war, states of siege or emergency, police operations to

⁶¹ See <https://www.ohchr.org/en/press-briefing-notes/2022/11/saudi-arabia-resumption-executions-drug-related-offences>.

⁶² See <https://www.aljazeera.com/news/2022/11/16/kuwait-executes-seven-people-despite-international-outcry>; and <https://news.un.org/en/story/2022/09/1126021>.

⁶³ See https://jpp.org.pk/wp-content/uploads/2023/10/JPP_DP_REPORT_23-.pdf.

⁶⁴ See <https://news.un.org/en/story/2022/12/1131487>.

⁶⁵ See communication BLR 2/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27939>.

⁶⁶ See <https://spring96.org/en/news/110810>.

⁶⁷ See <https://apnews.com/article/uganda-lgbtq-bill-signed-museveni-e236013019a26a0348968e6593f04f14>.

⁶⁸ See <https://www.ohchr.org/en/press-releases/2024/04/uganda-turk-dismayed-ruling-upholding-discriminatory-anti-gay-law>.

⁶⁹ See <https://time.com/6589057/iraq-mass-executions-capital-punishment/>.

⁷⁰ See <https://www.ohchr.org/en/press-releases/2024/01/iraq-must-immediately-stop-mass-unannounced-executions-un-experts>.

⁷¹ Harm Reduction International, “The death penalty for drug offences: global overview 2022” (London, 2023), p. 25.

⁷² See <https://guyanatimesgy.com/appeal-court-quashes-death-sentence-imposed-on-3-ex-gdf-coast-guards/>.

⁷³ See <https://www.jcpc.uk/cases/docs/jcpc-2020-0051-judgment.pdf>.

⁷⁴ See <https://www.reuters.com/world/africa/congo-lifts-moratorium-death-penalty-justice-ministry-circular-shows-2024-03-15/>.

restore public order and other exceptional circumstances.⁷⁵ In Nigeria, the Senate approved the death penalty for people convicted of drug trafficking.⁷⁶

32. In the United States of America, the state of Florida passed two laws that expanded the scope of the death penalty, one lowering the threshold for the imposition of the death penalty by allowing capital punishment with a recommendation of at least 8 out of 12 jurors in favour of execution, instead of unanimity.⁷⁷ The other law provides for discretionary application of the death penalty in cases of rape of a child below 12 years of age.⁷⁸ Furthermore, the state of Idaho reinstated the firing squad as an execution method.⁷⁹

III. Transparency and the use of the death penalty

33. In its resolution 54/35, the Human Rights Council called upon States that had not yet abolished the death penalty to make available systematically and publicly full, accurate and relevant information, disaggregated by gender, age, nationality, race, disability and other applicable criteria, with regard to their use of the death penalty. In the resolution, the Council indicated that such information could contribute to informed and transparent national and international debates, bearing in mind that access to reliable information on the imposition and application of the death penalty enables national and international stakeholders to understand and assess the scope of those practices.

34. The General Assembly reiterated that recommendation in its resolution 77/222, and the Secretary-General emphasized its importance by recommending that States systematically and publicly provide full, accurate and disaggregated data on death sentences, including on pardons, commutations and appeals, in order to facilitate a fully informed public debate on the scope of the use of the death penalty and its impact on human rights.⁸⁰

35. It remains difficult to obtain accurate global figures on the application of the death penalty. China and Viet Nam continue to classify data on the use of the death penalty as State secrets.⁸¹ In February 2024, however, the Supreme People's Court of China reportedly made public a series of death penalty review decisions issued in 2022 and 2023, shortly after the universal periodic review of China before the Human Rights Council. As at 17 April 2024, a total of 216 of its death penalty review decisions were publicly available.

36. In December 2022, the United Nations High Commissioner for Human Rights expressed shock that more than 130 people had been sentenced to death by secretive military courts in Myanmar since the military coup in 2021. He warned that military courts had consistently failed to uphold any degree of transparency, contrary to the most basic due process or fair trial guarantees. The Myanmar military had carried out four executions in July 2022, the first in approximately 30 years.⁸²

37. In November 2022, the Committee against Torture regretted that Uganda had not provided detailed and disaggregated data on the number of individuals under sentence of death.⁸³ The Human Rights Committee remained gravely concerned at racial disparities in the imposition of the death penalty in the United States, with a disproportionate impact on people of African descent.⁸⁴

⁷⁵ See <https://www.peinedemort.org/document/12106/Note-Circulaire-relative-a-la-levee-du-moratoire-sur-l-execution-de-la-peine-de-mort-en-Republique-democratique-du-Congo> (in French).

⁷⁶ See <https://www.reuters.com/world/africa/nigerias-senate-proposes-death-penalty-drug-trafficking-2024-05-09/>.

⁷⁷ See <https://www.wusf.org/politics-issues/2023-04-20/unanimous-juries-are-no-longer-required-for-florida-death-penalty-sentences>.

⁷⁸ See <https://www.cbsnews.com/miami/news/florida-death-penalty-in-child-rapes-to-take-effect/>.

⁷⁹ See <https://www.idahostatesman.com/news/politics-government/state-politics/article276868683.html>.

⁸⁰ A/HRC/54/33, para. 64.

⁸¹ Amnesty International, "Global report: 2023", p. 6.

⁸² See <https://www.ohchr.org/en/press-releases/2022/12/myanmar-un-human-rights-chief-alarmed-death-sentences-secretive-military>.

⁸³ CAT/C/UGA/CO/2, para. 39.

⁸⁴ CCPR/C/USA/CO/5, para. 30.

IV. Safeguards guaranteeing protection of the rights of those facing the death penalty

38. In its resolution 54/35, the Council reaffirmed the safeguards guaranteeing protection of the rights of those facing the death penalty, which are the internationally recognized minimum standards to be observed by States that continue to impose capital punishment.⁸⁵ In its general comment No. 36 (2018), the Human Rights Committee elaborated upon the term “most serious crimes”, mandatory death sentences, fair trial guarantees, the right to seek pardon or commutation, methods of execution, and protection of juveniles, persons with disabilities and pregnant women.⁸⁶

A. Restriction of the use of the death penalty to the “most serious crimes”

39. Article 6 (2) of the International Covenant on Civil and Political Rights provides that States should impose the death penalty only for the “most serious crimes”. The Human Rights Committee has indicated that the term “most serious crimes” must be read restrictively and appertain only to crimes of extreme gravity involving intentional killing. The Committee stated that crimes not resulting directly and intentionally in death, such as drug-related offences, although serious in nature, can never serve as the basis for the imposition of the death penalty within the framework of the right to life.⁸⁷

40. There was a considerable increase in executions for drug-related offences throughout the reporting period. According to Amnesty International, 325 executions for drug-related offences were carried out worldwide in 2022, which is over twice the number carried out in 2021.⁸⁸ In 2023, it reported 508 global executions for drug-related offences, amounting to an increase of more than 56 per cent compared to 2022.⁸⁹ Harm Reduction International reported that drug-related offences accounted for roughly 42 per cent of all executions confirmed globally in 2023, the highest recorded figure since 2016. It also concluded that 98 per cent of all confirmed executions for drug-related offences in 2023 took place in the Islamic Republic of Iran.⁹⁰

41. By the end of 2023, 34 States continued to prescribe the death penalty as a punishment for drug-related offences, one State less than in 2022, and at least 3,000 people were on death row for drug-related offences in 19 countries.⁹¹

42. The Parliament of Sri Lanka extended the death penalty to drug-related offences, making possession and trafficking of 5g or more of methamphetamine punishable by death.⁹² Singapore executed 5 people for drug-related offences in 2023,⁹³ and Viet Nam reportedly sentenced at least 34 people to death for drug-related offences in the same year.⁹⁴

43. Pakistan removed the death penalty for drug-related offences in July 2023.⁹⁵ However, judges have reportedly continued imposing the death sentence for drug-related offences as

⁸⁵ Economic and Social Council resolution 1984/50 of 25 May 1984, annex; and E/2015/49, para. 60.

⁸⁶ General comment No. 36 (2018), paras. 32–51.

⁸⁷ Ibid., para. 35.

⁸⁸ Amnesty International, “Global report: 2022”, p. 8.

⁸⁹ Amnesty International, “Global report: 2023”.

⁹⁰ Harm Reduction International, “The death penalty for drug offences: global overview 2023” (London, 2024), pp. 10 and 13.

⁹¹ Ibid., p. 8.

⁹² Amnesty International, “Global report: 2022”, p. 25.

⁹³ Harm Reduction International, “The death penalty for drug offences: 2023”, p. 12.

⁹⁴ See <https://tvphapluat.vn/video/6-bi-cao-linh-an-tu-hinh-trong-vu-buon-ban-ma-tuy-tu-nghe-an-vao-tp-hcm-67328/>; <https://www.vietnamplus.vn/son-la-10-an-tu-hinh-trong-vu-an-mua-ban-trai-phep-hon-21kg-ma-tuy-post866545.vnp>; and <https://nhandan.vn/tuyen-tu-hinh-18-bi-cao-ve-toi-mua-ban-van-chuyen-tang-tru-ma-tuy-post782131.html> (all in Vietnamese).

⁹⁵ See https://jpp.org.pk/wp-content/uploads/2023/10/JPP_DP_REPORT_23-.pdf.

recently as January 2024.⁹⁶ As at October 2023, there were reportedly still 1,026 individuals on death row for drug-related offences in Pakistan, underscoring the importance of a policy for re-evaluating the sentences of those currently on death row for drug-related offences.⁹⁷

44. Persons from ethnic minority groups, foreign nationals and women are uniquely vulnerable to capital punishment for drug-related offences. Harm Reduction International reported that around 40 per cent of those executed for drug-related offences in the Islamic Republic of Iran in 2022 were of Baluchi ethnicity, despite the fact that the Baluchi minority accounts for roughly 2 per cent of the population.⁹⁸ China reportedly executed a national of the Republic of Korea and two nationals of the Philippines for drug-related offences and a national of Sri Lanka was reportedly executed for drug trafficking in Kuwait, marking the first execution for drug-related offences in that country since 2007.⁹⁹ Several special procedure mandate holders expressed concern that a disproportionate number of those being sentenced to death for drug-related offences in Singapore were members of minority groups from economically disadvantaged backgrounds.¹⁰⁰

45. Other non-violent crimes resulting in the death penalty include fraud committed by a property developer in Viet Nam.¹⁰¹ Two treaty bodies were concerned by reports that Egypt¹⁰² and Sri Lanka¹⁰³ imposed the death penalty for crimes that do not meet the “most serious crimes” threshold. Upon lifting its moratorium on the death penalty, the Democratic Republic of the Congo stated that capital punishment would apply to a long list of crimes broadly related to treason, such as cowardice, desertion, espionage, rebellion and refusal to obey orders. Ordinary offences, such as theft and embezzlement, were also included.¹⁰⁴ Most of these crimes fall short of the “most serious crimes” threshold.

46. The Human Rights Committee has reaffirmed that under no circumstances can the death penalty ever be applied as a sanction against conduct the very criminalization of which violates the International Covenant on Civil and Political Rights, including adultery, homosexuality, apostasy, establishing political opposition groups, or offending a head of State.¹⁰⁵ The Independent Expert on the enjoyment of all human rights by older persons expressed deep concern at information that a court in Nigeria had sentenced three men to death by stoning after convicting them on charges of engaging in homosexuality.¹⁰⁶ In August 2023, two men in Uganda were facing separate charges of “aggravated homosexuality”, an offence punishable by death under the country’s new Anti-Homosexuality Act.¹⁰⁷

47. Several special procedure mandate holders expressed alarm at the death sentences imposed by the Islamic Republic of Iran on people for expressing opinions critical of the Government and religious leaders.¹⁰⁸ According to the European Saudi Organization for

⁹⁶ Joint submission by Eleos Justice/Monash University (input 1). See also https://na.gov.pk/uploads/documents/64d4d874b52c0_506.pdf for confirmation that the relevant amendment to the Control of Narcotic Substances Act entered into force on 5 August 2023.

⁹⁷ Submission by Justice Project Pakistan.

⁹⁸ Harm Reduction International, “The death penalty for drug offences: 2022”, p. 30.

⁹⁹ Harm Reduction International, “The death penalty for drug offences: 2023”, p. 14.

¹⁰⁰ See <https://www.ohchr.org/en/press-releases/2022/07/singapore-un-experts-call-immediate-moratorium-executions-drug-offences>.

¹⁰¹ See <https://www.bbc.com/news/world-asia-68778636>.

¹⁰² CAT/C/EGY/CO/5, paras. 37 and 38 (b).

¹⁰³ CCPR/C/LKA/CO/6, paras. 24 and 25.

¹⁰⁴ See <https://www.peinedemort.org/document/12106/Note-Circulaire-relative-a-la-levee-du-moratoire-sur-l-execution-de-la-peine-de-mort-en-Republique-democratique-du-Congo> (in French).

¹⁰⁵ General comment No. 36 (2018), para. 36.

¹⁰⁶ A/HRC/54/26/Add.1, para. 34.

¹⁰⁷ See <https://edition.cnn.com/2023/08/29/africa/ugandans-charged-aggravated-homosexuality-intl/index.html>.

¹⁰⁸ See <https://www.ohchr.org/en/press-releases/2024/05/iran-un-experts-alarmed-death-sentence-imposed-peaceful-activist-demand>; <https://www.ohchr.org/en/press-releases/2024/04/iran-un-experts-alarmed-death-sentence-imposed-rapper-and-songwriter-toomaj>; <https://www.ohchr.org/en/press-releases/2023/05/iran-un-experts-condemn-recent-executions-urge-moratorium-death-penalty>; and <https://www.ohchr.org/en/press-releases/2022/11/iran-stop-sentencing-peaceful-protesters-death-say-un-experts>.

Human Rights, many cases related to expressing opinions and participating in protests in Saudi Arabia have been prosecuted as terrorism, resulting in the death penalty.¹⁰⁹

B. Prohibition of the mandatory use of the death penalty

48. According to the Human Rights Committee, in all cases involving the application of the death penalty, the personal circumstances of the offender and the particular circumstances of the offence must be considered by the sentencing court. Hence the Committee indicated that mandatory death sentences that leave domestic courts with no discretion as to whether to designate the offence as a crime warranting the death penalty, and whether to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature.¹¹⁰ Such mandatory death sentences would also be incompatible with the limitation of capital punishment to the “most serious crimes”.¹¹¹

49. In 2023, the parliament in Malaysia passed two bills abolishing the mandatory death penalty for 11 crimes, replacing it with alternative sentences.¹¹² The laws entered into force on 4 July 2023¹¹³ and the highest court of Malaysia commuted the first batch of death sentences to life imprisonment in November 2023.¹¹⁴

50. On 14 November 2023, the High Court of Trinidad and Tobago released a man from prison who had served 24 years on death row after receiving a mandatory death sentence for murder.¹¹⁵

51. In 2023, mandatory death sentences were reportedly imposed in Afghanistan, Ghana, Iran (Islamic Republic of), Malaysia, Myanmar, Nigeria, Pakistan, Saudi Arabia, Singapore and Trinidad and Tobago.¹¹⁶ In a decision of 1 December 2022, the African Court on Human and Peoples’ Rights found that the mandatory death penalty for murder in the United Republic of Tanzania violated the right to life.¹¹⁷

C. Fair trial guarantees

52. According to the Human Rights Committee, violations of fair trial guarantees provided for in article 14 of the International Covenant on Civil and Political Rights in proceedings resulting in the imposition of the death penalty would render the sentence arbitrary in nature, and would constitute a violation of the right to life.¹¹⁸ Such violations include the use of forced confessions, lack of effective representation, excessive and unjustified delays, general lack of fairness of the criminal process and lack of independence or impartiality of the trial or appeal court.¹¹⁹ Other serious procedural flaws, such as a failure to promptly inform detained foreign nationals of their right to consular notification and failure to afford individuals about to be deported to a country in which their lives are claimed to be at real risk the opportunity to avail themselves of available appeal procedures might also render the imposition of the death penalty contrary to article 6 (1) of the Covenant.¹²⁰

¹⁰⁹ Submission by European Saudi Organization for Human Rights.

¹¹⁰ General comment No. 36 (2018), para. 37; and A/HRC/39/19, para. 24.

¹¹¹ E/2015/49 and E/2015/49/Corr.1, para. 63.

¹¹² See <https://www.ohchr.org/en/press-releases/2023/04/malaysia-un-experts-hail-parliamentary-decision-end-mandatory-death-penalty>; and <https://www.hrw.org/news/2023/04/11/malaysia-repeals-mandatory-death-penalty>.

¹¹³ See <https://icomdp.org/malaysia-s-mandatory-death-penalty-abolition-comes-into-effect/>.

¹¹⁴ See <https://thediplomat.com/2023/11/malaysia-commutes-first-batch-of-death-sentences-under-new-law/>.

¹¹⁵ See <https://deathpenaltyproject.org/longest-serving-death-row-prisoner-in-tt-released-by-high-court/>.

¹¹⁶ Amnesty International, “Global report: 2023”, p. 13.

¹¹⁷ See <https://www.african-court.org/cpmt/storage/app/uploads/public/638/8d1/94a/6388d194a4da8742577700.pdf>.

¹¹⁸ General comment No. 36 (2018), para. 41; and general comment No. 32 (2007), para. 59.

¹¹⁹ General comment No. 36 (2018), para. 41.

¹²⁰ *Ibid.*, para. 42.

53. Some death sentences were reportedly imposed after arbitrary arrests, after due process and fair trial guarantees were not upheld and after alleged torture, including in Bahrain¹²¹ and Saudi Arabia.¹²² The Committee against Torture and several special procedure mandate holders expressed concern and outrage about the lack of due process and fair trial in several death penalty cases in Belarus,¹²³ Egypt,¹²⁴ Iran (Islamic Republic of),¹²⁵ Iraq¹²⁶ and Saudi Arabia.¹²⁷

D. Right to seek pardon or commutation

54. Article 6 (4) of the International Covenant on Civil and Political Rights requires States parties to allow anyone sentenced to death to seek pardon or commutation of the sentence and provides that amnesty, pardon or commutation may be granted in all death penalty cases. According to the Human Rights Committee, States parties are required to ensure that amnesties, pardons and commutations can be granted in appropriate circumstances and that sentences are not carried out before requests for pardon or commutation have been meaningfully considered and conclusively decided upon according to applicable procedures. The Committee has indicated that the conditions for attaining relief should not be ineffective, unnecessarily burdensome, discriminatory in nature or applied in an arbitrary manner. It has also indicated that it is contrary to the object and purpose of article 6 of the Covenant for States parties to reduce the number of pardons and commutations they grant.¹²⁸

55. In 2022, Amnesty International recorded pardons or commutations of death sentences in 26 countries and at least 28 exonerations of prisoners under sentence of death in 4 countries.¹²⁹ In 2023, it recorded pardons or commutations of death sentences in 27 countries and 9 exonerations of prisoners under sentence of death in 3 countries.¹³⁰ Malawi commuted 25 death sentences, leaving no prisoners remaining on death row.¹³¹ In Mali, three Ivorian soldiers who had been sentenced to death in absentia for assassination and conspiracy against the Government were granted a presidential pardon in 2023.¹³² Following the abolition of the death penalty, the President of Zambia commuted the death sentences of the remaining 390 prisoners on death row to life imprisonment.¹³³

56. The President of Indonesia pardoned an individual sentenced to death for drug-related offences.¹³⁴ In Kenya, the President commuted all death sentences imposed before 22 November 2022 to life imprisonment.¹³⁵ A court of appeal in the United Arab Emirates commuted to life imprisonment the sentence of a foreign woman who had been sentenced to death for drug trafficking.¹³⁶ In the United States of America, the Governor of the state of

¹²¹ Joint submission by Reprieve and Bahrain Institute for Rights and Democracy (Reprieve input 3).

¹²² Joint submission by Reprieve and European Saudi Organization for Human Rights (Reprieve input 4).

¹²³ A/HRC/53/53, para. 93.

¹²⁴ CAT/C/EGY/CO/5, para. 37.

¹²⁵ A/HRC/52/67, paras. 9, 53, 55 and 75 (d).

¹²⁶ See <https://www.ohchr.org/en/press-releases/2024/01/iraq-must-immediately-stop-mass-unannounced-executions-un-experts>.

¹²⁷ A/HRC/WGAD/2022/36, para. 97.

¹²⁸ General comment No. 36 (2018), paras. 47 and 50.

¹²⁹ Amnesty International, "Global report: 2022", p. 13.

¹³⁰ Amnesty International, "Global report: 2023", p. 12.

¹³¹ A/HRC/54/33, para. 22.

¹³² See <https://www.dw.com/en/mali-pardons-49-ivorian-soldiers/a-64311525>.

¹³³ See <https://www.barrons.com/news/zambia-commutes-nearly-400-death-sentences-after-law-change-01675886708>.

¹³⁴ See <https://www.amnesty.my/2023/05/16/press-release-death-penalty-reforms-bring-hope/>.

¹³⁵ See <https://allafrica.com/stories/202307250527.html>; and <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1168/Press-Release-Commutation-of-Death-Sentences-to-Life-Imprisonment-A-Welcome-Move>.

¹³⁶ See <https://www.middleeastmonitor.com/20220708-uae-court-hands-israel-woman-life-sentence/>.

Oregon commuted all 17 remaining death sentences in the state to life in prison without the possibility of parole.¹³⁷

57. The Human Rights Committee expressed concern that the perpetrators of certain crimes punishable by death in Sri Lanka are explicitly excluded from being granted pardons or commutations.¹³⁸

E. Methods of execution and prohibition of public executions

58. According to the Human Rights Committee, States parties that have not abolished the death penalty must carry it out in such a way as to respect article 7 of the International Covenant on Civil and Political Rights, which prohibits certain methods of execution, including stoning, injection of untested lethal drugs and public executions, as well as other painful and humiliating methods of execution. The Committee has stated that failure to respect article 7 would inevitably render the execution arbitrary in nature and thus also in violation of article 6.¹³⁹ In its resolution 48/9, the Human Rights Council called upon States that had not yet abolished the death penalty to be transparent with respect to their execution methods.

59. In July 2022, according to the Death Penalty Information Center, the state of Alabama reportedly carried out the longest botched lethal injection execution in the history of the United States of America, which is estimated to have lasted at least three hours.¹⁴⁰ Two more botched lethal injection executions were halted in Alabama due to complications in placing intravenous lines,¹⁴¹ while three more botched lethal injection executions were carried out in the states of Arizona, Idaho and Texas.¹⁴² The Human Rights Committee regretted the lack of information provided by the United States of America on allegations of the use there of untested lethal drugs to execute prisoners and on reported cases of excruciating pain caused by the use of those drugs and botched executions.¹⁴³

60. In January 2024, in the state of Alabama, United States of America, a man was executed using the novel and untested method of suffocation by nitrogen gas. According to an eyewitness account, the process took several minutes and subjected the prisoner to extreme suffering.¹⁴⁴ The United Nations High Commissioner for Human Rights deeply regretted the execution and expressed concern that it may have amounted to torture or ill-treatment.¹⁴⁵

¹³⁷ See <https://oregoncapitalchronicle.com/2022/12/13/oregon-gov-kate-brown-commutes-17-death-sentences-ending-death-row/>.

¹³⁸ CCPR/C/LKA/CO/6, para. 24.

¹³⁹ General comment No. 36 (2018), para. 40.

¹⁴⁰ See <https://deathpenaltyinfo.org/facts-and-research/dpic-reports/dpic-year-end-reports/the-death-penalty-in-2023-year-end-report#executed-prisoners-spent-longer-on-death-row>; and <https://deathpenaltyinfo.org/news/private-autopsy-documents-carnage-experienced-by-alabama-death-row-prisoner-joe-nathan-james-during-longest-botched-lethal-injection-execution-in-history>.

¹⁴¹ See <https://deathpenaltyinfo.org/news/federal-court-orders-alabama-to-preserve-evidence-of-botched-attempted-execution-of-alan-miller>; and <https://deathpenaltyinfo.org/news/after-u-s-supreme-court-overturns-lethal-injection-stay-alabama-tries-and-fails-to-execute-kenneth-eugene-smith>.

¹⁴² See <https://deathpenaltyinfo.org/executions/botched-executions>; <https://deathpenaltyinfo.org/news/as-lethal-injection-turns-forty-states-botch-a-record-number-of-executions>; and <https://deathpenaltyinfo.org/news/idaho-halts-first-lethal-injection-execution-in-12-years-after-failure-to-establish-i-v-lines>.

¹⁴³ CCPR/C/USA/CO/5, para. 30.

¹⁴⁴ Submission of Jeff Hood. See also <https://www.aclu.org/news/capital-punishment/alabama-has-executed-a-man-with-nitrogen-gas-despite-jurys-life-verdict>.

¹⁴⁵ See <https://www.ohchr.org/en/statements/2024/01/alabama-execution>.

Shortly thereafter, bills seeking approval of nitrogen suffocation as a method of execution were introduced in the states of Kansas,¹⁴⁶ Louisiana,¹⁴⁷ Nebraska¹⁴⁸ and Ohio.¹⁴⁹

61. Public executions were reportedly conducted in Afghanistan¹⁵⁰ and in Iran (Islamic Republic of).¹⁵¹

62. According to the Human Rights Committee, failure to provide persons on death row with timely notification about the date of their execution constitutes, as a rule, a form of ill-treatment, which renders the subsequent execution contrary to article 7 of the International Covenant on Civil and Political Rights.¹⁵²

V. Use of the death penalty against children and persons with psychosocial or intellectual disabilities

A. Children

63. Article 6 (5) of the International Covenant on Civil and Political Rights and article 37 (a) of the Convention on the Rights of the Child prohibit imposing the death penalty for crimes committed by persons under 18 at the time of the offence. The Committee on the Rights of the Child has stated that article 37 (a) reflects the customary international law prohibition of the imposition of the death penalty for a crime committed by a person who is under 18 years of age¹⁵³ and that the explicit and decisive criterion is the age at the time of the commission of the offence.¹⁵⁴ If there is no reliable and conclusive proof that the person was below the age of 18 at the time the offence was committed, the individual has the right to the benefit of the doubt and the death penalty cannot be imposed.¹⁵⁵

64. Amnesty International has reported that seven young men, all of whom were children at the time of their arrest, are facing the imminent threat of execution in Saudi Arabia, despite a 2020 royal decree abolishing the death penalty for persons who were children at the time of their alleged offence.¹⁵⁶ The European Saudi Organization for Human Rights reports that it is currently monitoring the cases of 68 individuals, including 9 children, who were sentenced to death under counter-terrorism laws in Saudi Arabia.¹⁵⁷

65. The International Bar Association Human Rights Institute claims that the Democratic People's Republic of Korea reportedly publicly executed two children by firing squad for allegedly distributing movies from the Republic of Korea.¹⁵⁸

66. In its second periodic report submitted under the International Covenant on Civil and Political Rights in June 2022, Pakistan maintained that, in accordance with its Juvenile Justice System Ordinance, it did not sentence individuals below the age of 18 to death.¹⁵⁹ However, in a report submitted in July 2022 for the universal periodic review of Pakistan,

¹⁴⁶ See <https://kansasreflector.com/2024/02/09/attorney-general-in-kansas-sponsors-bill-adding-hypoxia-option-for-executing-capital-murderers/>.

¹⁴⁷ See <https://www.nbcnews.com/news/us-news/louisiana-lawmakers-bill-allow-nitrogen-gas-executions-rcna138066>.

¹⁴⁸ See <https://apnews.com/article/death-penalty-nitrogen-nebraska-alabama-76bba87753bc1ab20b0bc50a09991ec8>.

¹⁴⁹ See <https://ohiocapitaljournal.com/2024/04/18/ohio-house-holds-first-hearing-for-new-nitrogen-gas-death-penalty-method/>.

¹⁵⁰ See <https://news.un.org/en/story/2022/12/1131487>.

¹⁵¹ Amnesty International, "Global report: 2023", p. 13.

¹⁵² General comment No. 36 (2018), para. 40.

¹⁵³ Committee on the Rights of the Child, general comment No. 24 (2019), para. 79. See also Commission on Human Rights resolution 2003/67.

¹⁵⁴ General comment No. 24 (2019), para. 79.

¹⁵⁵ *Ibid.* and Human Rights Committee, general comment No. 36 (2018), para. 48.

¹⁵⁶ See <https://www.amnesty.org/en/latest/news/2023/06/saudi-arabia-imminent-execution-of-youths-would-violate-kingdoms-promise-to-abolish-death-penalty-for-juveniles/>.

¹⁵⁷ Submission by European Saudi Organization for Human Rights.

¹⁵⁸ See <https://www.rfa.org/english/news/korea/by-hyemin-son-for-rfa-korean-12022022204452.html>.

¹⁵⁹ CCPR/C/PAK/2, para. 69.

The Advocates for Human Rights and four other non-governmental organizations contended that the country's inadequate age determination procedures resulted in the courts routinely sentencing to death people who had been below the age of 18 at the time of their alleged offences.¹⁶⁰

67. In 2023, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran expressed concern that the Iranian authorities continued to execute persons sentenced as children and that at least 85 child offenders remained on death row.¹⁶¹ The Committee against Torture expressed concern at reports that children had been sentenced to death for offences allegedly committed before they attained the age of 18 years.¹⁶² The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment expressed concern that Gabon had not commuted the sentences of individuals on death row, including minors, following its abolition of the death penalty in 2010.¹⁶³

68. In April 2023, India freed a man who had spent 28 years on death row after being sentenced to death when he was 12 years old.¹⁶⁴

B. Persons with psychosocial or intellectual disabilities

69. The Human Rights Committee has indicated that States must refrain from imposing the death penalty on individuals who face special barriers in defending themselves on an equal basis with others, such as persons whose serious psychosocial or intellectual disabilities impeded their effective defence and persons who have a diminished ability to understand the reasons for their sentence.¹⁶⁵ Furthermore, it has noted that violations of fair trial guarantees, such as failure to provide accessible documents and procedural accommodation for persons with disabilities, resulting in the imposition of the death penalty, would render the sentence arbitrary in nature, in violation of article 6 of the International Covenant on Civil and Political Rights.¹⁶⁶ The Committee on the Rights of Persons with Disabilities has noted that persons with psychosocial or intellectual disabilities are more likely to be denied guarantees of fair trial due to the lack of procedural accommodations.¹⁶⁷ It has called for the abolition of the death penalty and the suspension of all death sentences of persons with psychosocial or intellectual disabilities, with a view to complying with article 10 of the Convention on the Rights of Persons with Disabilities.¹⁶⁸ In its resolution 77/222, the General Assembly called upon all States to progressively restrict the use of the death penalty and not to impose capital punishment on persons with mental or intellectual disabilities.

70. Persons with psychosocial or intellectual disabilities were reportedly executed in the United States of America.¹⁶⁹ The Death Penalty Information Center alleges that 79 per cent of the people executed in 2023 in that country had at least one of the following impairments: a serious mental health issue, a brain injury, developmental brain damage or an intellectual impairment and/or chronic serious childhood trauma, neglect and/or abuse.¹⁷⁰ Persons with

¹⁶⁰ See

<https://www.theadvocatesforhumanrights.org/Res/Pakistan%20UPR%20Death%20Penalty%20final.pdf>.

¹⁶¹ A/HRC/52/67, para. 65.

¹⁶² CAT/C/EGY/CO/5, para. 37.

¹⁶³ CAT/OP/GAB/1, para. 76.

¹⁶⁴ See <https://timesofindia.indiatimes.com/india/if-only-theyd-checked-my-age-juvenile-on-death-row-for-28-years-walks-free/articleshow/99445097.cms>.

¹⁶⁵ General comment No. 36 (2018), para. 49. See also Economic and Social Council resolutions 1984/50 and 1989/64.

¹⁶⁶ General comment No. 36 (2018), para. 41.

¹⁶⁷ *Al Adam v. Saudi Arabia* (CRPD/C/20/D/38/2016); and *Makarov v. Lithuania* (CRPD/C/18/D/30/2015). See also CRPD/C/IRN/CO/1, paras. 22 and 23.

¹⁶⁸ CRPD/C/KWT/CO/1, paras. 20 and 21; and CRPD/C/SAU/CO/1, paras. 17 and 18. See also the International Principles and Guidelines on Access to Justice for Persons with Disabilities.

¹⁶⁹ Submission by The Advocates for Human Rights.

¹⁷⁰ See <https://deathpenaltyinfo.org/facts-and-research/dpic-reports/dpic-year-end-reports/the-death-penalty-in-2023-year-end-report#executed-prisoners-spent-longer-on-death-row>.

psychosocial or intellectual disabilities were also reportedly executed in the Islamic Republic of Iran.¹⁷¹

71. Despite the landmark ruling of the Supreme Court of Pakistan in 2021 that barred the execution of individuals with severe psychosocial disabilities,¹⁷² a Pakistani non-governmental organization asserted that there were no indications at the time of writing that the Government had implemented any of the Court's directions to the Federal and provincial governments, which included arranging appropriate in-depth training and capacity-building for lawyers, judges, police and prison officials and psychiatrists.¹⁷³

72. The Committee on the Rights of Persons with Disabilities expressed grave concern that the death penalty was imposed and carried out on persons with intellectual disabilities, persons with psychosocial disabilities and autistic persons in Singapore.¹⁷⁴ Reprieve reported that the extremely limited scope for individuals facing the death penalty in Malaysia to adduce mitigating evidence of mental or intellectual disability for the purpose of seeking a reduced sentence posed a significant barrier for individuals seeking alternative sentences.¹⁷⁵

73. In the United States of America, the House of Representatives of the state of Texas passed a bill in April 2023 exempting some people with severe mental illness from the death penalty, which will be considered by the state Senate.¹⁷⁶

VI. Gender dimensions of the death penalty

74. Article 6 (5) of the International Covenant on Civil and Political Rights prohibits States parties from carrying out the death penalty on pregnant women, and the safeguards guaranteeing protection of the rights of those facing the death penalty (see para. 38 above) extend the prohibition to new mothers.¹⁷⁷ Reprieve referred in its submission to the physical and mental health impacts of the death penalty on women on death row, many of which resulted from a lack of gender-sensitive health care, including a failure to provide for the needs of women incarcerated with children.¹⁷⁸ According to a study conducted by the Cornell Law School and Cornell Center on the Death Penalty Worldwide, defence attorneys frequently failed to present evidence of gender-based violence in women's capital trials and prosecutors often relied on gendered tropes to discredit women's accounts of childhood sexual abuse, rape and intimate partner violence. As a result, the study concluded that "those who sentence women to die rarely comprehend the extensive trauma that the women have endured throughout their lives, and how that trauma relates to their legal and moral culpability".¹⁷⁹

75. The Committee on the Elimination of Discrimination against Women noted with concern that Singapore retained the death penalty and applied it in practice and that its courts reportedly often failed to consider pertinent circumstances and mitigating factors, such as evidence of trauma, economic pressure, child marriage, domestic and gender-based violence, and intellectual and/or psychosocial disabilities, in criminal proceedings against women. It also noted with concern that women facing capital punishment were subject to solitary confinement and did not systematically benefit from a legal assistance scheme for people charged with capital offences at all stages owing to a lack of qualified personnel with expertise in gender-sensitive administration of justice.¹⁸⁰

¹⁷¹ See https://iranhr.net/media/files/Rapport_iran_2022_PirQr2V.pdf; and <https://www.amnesty.org/en/latest/news/2024/01/iran-executions-of-protester-with-mental-disability-and-kurdish-man-mark-plunge-into-new-realms-of-cruelty/>.

¹⁷² See https://www.supremecourt.gov.pk/downloads_judgements/c.r.p._420_2016.pdf.

¹⁷³ Submission by Justice Project Pakistan.

¹⁷⁴ CRPD/C/SGP/CO/1, para. 19.

¹⁷⁵ Submission by Reprieve (input 1).

¹⁷⁶ See <https://www.texastribune.org/2023/03/29/texas-death-penalty-mental-illness/>.

¹⁷⁷ Economic and Social Council resolution 1984/50, annex, para. 3.

¹⁷⁸ Submission by Reprieve (input 5).

¹⁷⁹ See <https://scholarlycommons.law.cwsl.edu/cgi/viewcontent.cgi?article=2044&context=cwilj>.

¹⁸⁰ CEDAW/C/SGP/CO/6, para. 17.

76. During the reporting period, an increase in the execution of women was recorded in Saudi Arabia, from one woman executed in 2022¹⁸¹ to six executed in 2023.¹⁸² An increase was also reported in the Islamic Republic of Iran, from 12 women executed in 2022¹⁸³ to at least 24 in 2023.¹⁸⁴ In January 2023, the Islamic Republic of Iran reportedly sentenced a pregnant Kurdish woman to death for setting fire to a portrait of a former Iranian supreme leader.¹⁸⁵

77. In the United States of America, a federal appeals court denied relief to a woman who had been sentenced to death, despite evidence that prosecutors had relied on gender stereotypes of motherhood to convince a jury that she had murdered her husband. A court in the state of Illinois dismissed all charges against a woman who had been sentenced to death based on a confession that police had elicited by threatening her with the loss of custody of her children.¹⁸⁶

VII. Human rights of children of parents sentenced to the death penalty or executed

78. According to the Human Rights Committee, States must refrain from executing persons whose execution would lead to exceptionally harsh results for them and their families, such as parents of very young or dependent children.¹⁸⁷ In its resolution 48/9, the Human Rights Council called upon States to ensure that children whose parents or parental caregivers were on death row were provided, in advance, with adequate information about a pending execution and to allow a last visit or communication with the convicted individual and the return of the body to the family for burial, or to provide information about where the body was located, unless that was not in the best interests of the child. In 2020, the United Nations High Commissioner for Human Rights noted that children and family members of individuals sentenced to death or executed suffered extreme psychological distress, economic hardship and social stigmatization.¹⁸⁸

79. The Death Penalty Information Center has addressed the situation of children of parents sentenced to death or executed. It reported that the 23 persons executed in the United States in 2023 had spent an average of almost 23 years on death row,¹⁸⁹ creating a real risk that any children they had would suffer human rights violations resulting from extreme psychological distress, economic hardship and social stigmatization.

VIII. Conclusions and recommendations

80. I welcome the steady progress towards universal abolition of the death penalty. Encouraging steps include the deposit of a new instrument of ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the adoption of national laws abolishing the death penalty for all crimes and establishing judicial discretion by removing mandatory death penalties. Various domestic legal processes towards abolition of the death penalty were initiated or are ongoing. I encourage legislators and members of the judiciary to redouble their work towards abolition, including through the passage of legislation

¹⁸¹ Amnesty International, “Global report: 2022”, p. 10.

¹⁸² See <https://reprise.org/uk/2024/01/02/saudi-arabia-executed-at-least-172-people-in-2023/>.

¹⁸³ Amnesty International, “Global report: 2022”, p. 10.

¹⁸⁴ Amnesty International, “Global report: 2023”, p. 32.

¹⁸⁵ See <https://www.thenationalnews.com/mena/iran/2023/01/26/iran-sentences-pregnant-kurdish-woman-to-death/>.

¹⁸⁶ Submission by The Advocates for Human Rights.

¹⁸⁷ General comment No. 36 (2018), para. 49.

¹⁸⁸ See <https://www.ohchr.org/en/speeches/2020/09/75th-session-un-general-assembly-virtual-high-level-side-event-death-penalty-and>.

¹⁸⁹ See <https://deathpenaltyinfo.org/facts-and-research/dpic-reports/dpic-year-end-reports/the-death-penalty-in-2023-year-end-report#executed-prisoners-spent-longer-on-death-row>.

abolishing the death penalty and the use of judicial discretion to apply alternative sentences.

81. With respect to States that have not yet abolished the death penalty, I am concerned that the imposition and application of the death penalty has resumed and, in some instances, significantly increased. I once again recommend that States that continue to use the death penalty adopt a moratorium on executions with a view to abolition. Where a long de jure or de facto moratorium on the use of the death penalty has been observed, resuming its use could be contrary to the object and purpose of article 6 of the International Covenant on Civil and Political Rights.

82. Under international human rights law, the death penalty may be imposed only for the “most serious crimes”. That term has been consistently interpreted to refer to crimes of extreme gravity involving intentional killing. States must therefore refrain from using the death penalty for crimes not involving intentional killing, such as drug-related offences.

83. I urge States to abolish the mandatory death penalty. Until that has been done, a process that takes into account the personal situation of the offender and the particular circumstances of the offence, including its specific aggravating or attenuating elements, should be put in place to review all cases in which the death sentence was mandatorily imposed.

84. Pending abolition, I encourage States to ensure that legal guarantees and safeguards are effectively put in place and implemented, including the right to seek pardon and commutation through procedures that offer certain essential guarantees.

85. I urge States to ensure transparency on the imposition and application of the death penalty and to systematically and publicly provide full, accurate and disaggregated data on death sentences to facilitate a fully informed public debate on the scope of the use of the death penalty and its impact on human rights.

86. Customary international law prohibits the imposition of the death penalty for crimes committed by persons under the age of 18 at the time of the offence. I call upon States to ensure that this prohibition is clearly reflected in national legislation. As stated by the Human Rights Committee, in the absence of reliable and conclusive proof that a person was not below the age of 18 at the time the crime was committed, States must grant the individual concerned the benefit of the doubt and ensure that the death penalty will not be imposed. States should immediately halt executions of juvenile offenders and resentence them to appropriate custodial terms, rather than automatic life sentences.

87. States should also prohibit imposition of the death penalty on persons with psychosocial or intellectual disabilities. States should ensure that those persons have equal access to justice without discrimination by adopting procedural accommodations, including clear procedures and criteria for conducting independent expert assessments of disability and criminal responsibility.

88. Pending abolition, States must not violate article 7 of the International Covenant on Civil and Political Rights by carrying out executions that are cruel, unnecessarily painful or humiliating. Failure to respect the prohibition against torture and ill-treatment renders an execution arbitrary in nature and thus also in violation of the right to life.

89. I call upon States to pay greater attention to the gender dimension of the death penalty, including by addressing multiple forms of gender bias facing women sentenced to death, and taking full account of gender-related mitigating factors during sentencing, such as a history of surviving gender-based violence. States should offer gender-sensitive health care to women on death row and provide for the needs of women on death row who are incarcerated with children.

90. States that still use the death penalty should urgently ensure a protective environment for the children of parents sentenced to death or executed, preventing discrimination, stigmatization and distress, and providing them with assistance based on the principle of the best interests of the child.

91. As stated by the Human Rights Committee, the death penalty cannot be reconciled with full respect for the right to life. The abolition of the death penalty is necessary for the enhancement of human dignity and the progressive development of human rights. There is no conclusive evidence to support the theory that the death penalty deters crime more effectively than any other punishment.

92. In order to accelerate progress towards universal abolition and ensure full respect for the fundamental right to life, I encourage States to adopt further measures to limit the application of, or abolish, the death penalty.
