



# General Assembly

Distr.: General  
13 August 2020

Original: English

---

## Human Rights Council

### Forty-fifth session

14 September–2 October 2020

Agenda items 2 and 3

### 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 confirms the trend towards the universal abolition of the death penalty and highlights initiatives limiting its use and implementing the safeguards guaranteeing protection of the rights of those facing the death penalty. A minority of States continued to use the death penalty, in contravention of their international human rights law obligations. Pursuant to Council resolution 22/11, the report also includes information on the human rights of children of parents sentenced to the death penalty or executed.

---

\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

\*\* The annexes to the present report are reproduced as received, in the language of submission only.



## 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 most recent quinquennial report of the Secretary-General,<sup>1</sup> and includes supplementary data and tables (see annex). Pursuant to resolution 22/11, the report also includes information on the human rights of children of parents sentenced to the death penalty or executed.

2. The report covers the period July 2018–May 2020. 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.<sup>2</sup> Attention is also drawn to the report on a moratorium on the use of the death penalty, being submitted by the Secretary-General to the General Assembly at its seventy-fifth session, in which he outlines efforts made towards the implementation of resolution 73/175.

## II. Changes in law and practice

3. Changes in law include new legislation abolishing the death penalty, restricting it or expanding its scope, and ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Changes in practice comprise non-legislative measures, including policies and executive and judicial measures.

### A. Abolition of the death penalty or initiatives taken for its abolition, including commitments provided to abolish it

4. The Human Rights Committee has stated that article 6 (6) of the International Covenant on Civil and Political Rights reaffirms the position 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. 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 progressive development of human rights.<sup>3</sup>

5. Some 170 States have abolished or introduced a moratorium on the death penalty either in law or in practice, or have suspended executions for more than 10 years. In 2018, the General Assembly adopted resolution 73/175, its seventh in which it called on retentionist States to establish a moratorium on executions, with a view to abolition. In their submissions, several States described their process of and support for abolition.<sup>4</sup>

6. During the reporting period, Chad abolished the death penalty for all crimes. Angola, the Gambia and the State of Palestine became States parties to the Second Optional Protocol, and Armenia signed it. Benin and Guinea adopted constitutions that confirm the abolition of the death penalty. In the United States of America, 32 states have either abolished the death penalty or have not carried out executions in more than a decade.<sup>5</sup> The

---

<sup>1</sup> E/2020/53.

<sup>2</sup> Submissions will be available at [www.ohchr.org/EN/Issues/DeathPenalty/Pages/CallForInputs\\_DeathPenalty.aspx](http://www.ohchr.org/EN/Issues/DeathPenalty/Pages/CallForInputs_DeathPenalty.aspx).

<sup>3</sup> General comment No. 36 (2018) on the right to life, para. 50.

<sup>4</sup> Armenia, Cyprus, Ireland, Italy, Kyrgyzstan and Switzerland. See also submissions from the Council of Europe, the European Union, the Danish Institute for Human Rights and the Office of the Human Rights Ombudsman of Nicaragua. Cuba highlighted that it was opposed to the application of the death penalty and was in favour of eliminating it when favourable conditions existed. Egypt and Cuba maintained that there was no international consensus with regard to the death penalty and Egypt indicated that it opposed any attempt by the United Nations to impose a moratorium or abolition.

<sup>5</sup> See <https://files.deathpenaltyinfo.org/reports/year-end/YearEndReport2019.pdf>.

States of Colorado,<sup>6</sup> New Hampshire<sup>7</sup> and Washington<sup>8</sup> abolished the death penalty. California became the fourth state to apply a moratorium on executions.<sup>9</sup>

7. Various domestic law processes towards abolition of the death penalty were initiated. In the Gambia<sup>10</sup> and Liberia,<sup>11</sup> States parties to the Second Optional Protocol, initiatives were undertaken to remove the death penalty from domestic legislation. The Congo, Guinea and Kazakhstan announced they would ratify the Second Optional Protocol.<sup>12</sup> In April 2019, Equatorial Guinea announced a draft law to abolish the death penalty.<sup>13</sup> Burkina Faso announced a referendum on a constitution, which includes a provision to abolish the death penalty for all crimes.<sup>14</sup> The Ministry of Justice, Legal and Parliamentary Affairs in Zimbabwe reportedly recommended abolition.<sup>15</sup> Zambia announced it was open to a consultative process towards abolition.<sup>16</sup> In Ghana, the President announced willingness to consider abolition, at least for five of the six capital offences.<sup>17</sup>

8. The Catholic Church asserted that “the death penalty is inadmissible because it is an attack on the inviolability and dignity of the person”, committing to working toward abolition worldwide.<sup>18</sup>

9. Some States reiterated their support for a moratorium, including Lebanon, in its submission, and Maldives.<sup>19</sup> Further, States made numerous recommendations during the universal periodic review to retentionist States, including: to ratify or consider ratifying the Second Optional Protocol,<sup>20</sup> to prohibit the execution of persons who committed crimes when they were minors,<sup>21</sup> to provide greater transparency about the use of the death penalty,<sup>22</sup> to consider the establishment of a moratorium,<sup>23</sup> to continue efforts towards or consider abolition,<sup>24</sup> to reduce the number of capital crimes<sup>25</sup> and to abolish the death penalty.<sup>26</sup>

<sup>6</sup> Colorado Senate Bill 20-100, 23 March 2020.

<sup>7</sup> New Hampshire House Bill 455, 30 May 2019.

<sup>8</sup> Supreme Court of Washington, *Washington v. Gregory*, Case No. 88086-7, Opinion, 11 October 2018.

<sup>9</sup> See [www.gov.ca.gov/2019/03/13/governor-gavin-newsom-orders-a-halt-to-the-death-penalty-in-california/](http://www.gov.ca.gov/2019/03/13/governor-gavin-newsom-orders-a-halt-to-the-death-penalty-in-california/); [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24329&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24329&LangID=E).

<sup>10</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 47, and A/HRC/WG.6/34/GMB/1, para. 8.

<sup>11</sup> See [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FRLI%2FLBR%2f31718&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FRLI%2FLBR%2f31718&Lang=en), para. 14.

<sup>12</sup> See <http://webtv.un.org/search/kazakhstan-high-level-segment-1st-meeting-43rd-regular-session-human-rights-council-6135361620001/?term=&lan=english&cat=Regular%2043rd%20session&sort=date&page=17>; [www.ecpm.org/wp-content/uploads/actes-Bruxelles-2019.pdf](http://www.ecpm.org/wp-content/uploads/actes-Bruxelles-2019.pdf), p. 29.

<sup>13</sup> See [www.achpr.org/public/Document/file/English/Intersession%20Report-64os\\_Comm%20Kayitesi%20DP\\_ENG.pdf](http://www.achpr.org/public/Document/file/English/Intersession%20Report-64os_Comm%20Kayitesi%20DP_ENG.pdf), para. 11.

<sup>14</sup> See [www.amnesty.org/en/documents/act50/9870/2019/en/](http://www.amnesty.org/en/documents/act50/9870/2019/en/), p. 42; [www.ecpm.org/wp-content/uploads/actes-Bruxelles-2019.pdf](http://www.ecpm.org/wp-content/uploads/actes-Bruxelles-2019.pdf), p. 29.

<sup>15</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 51.

<sup>16</sup> See [www.hrc.org.zm/index.php/multi-media/speeches/file/274-speech-by-vice-president-of-zambia-on-2019-human-rights-day-commemoration](http://www.hrc.org.zm/index.php/multi-media/speeches/file/274-speech-by-vice-president-of-zambia-on-2019-human-rights-day-commemoration).

<sup>17</sup> See <https://cdn.penalreform.org/wp-content/uploads/2020/04/Global-Prison-Trends-2020-Penal-Reform-International.pdf>, p. 18.

<sup>18</sup> See [www.catholicnews.com/services/englishnews/2018/pope-revises-catechism-to-say-death-penalty-is-inadmissible.cfm](http://www.catholicnews.com/services/englishnews/2018/pope-revises-catechism-to-say-death-penalty-is-inadmissible.cfm).

<sup>19</sup> CAT/C/MDV/CO/1, para. 33.

<sup>20</sup> E.g., recommendations to Afghanistan (A/HRC/41/5), Nigeria (A/HRC/40/7), Saudi Arabia (A/HRC/40/4) and Vanuatu (A/HRC/41/10).

<sup>21</sup> E.g., recommendations to Iran (Islamic Republic of) (A/HRC/43/12), Nigeria (A/HRC/40/7) and Saudi Arabia (A/HRC/40/4).

<sup>22</sup> E.g., recommendations to the Democratic People’s Republic of Korea (A/HRC/42/10), Viet Nam (A/HRC/41/7) and Yemen (A/HRC/41/9).

<sup>23</sup> E.g., recommendations to Afghanistan (A/HRC/41/5).

<sup>24</sup> E.g., recommendations to Equatorial Guinea (A/HRC/42/13).

<sup>25</sup> E.g., recommendations to Iraq (A/HRC/43/14).

<sup>26</sup> E.g., recommendations to the Democratic Republic of the Congo (A/HRC/42/5); and to El Salvador and Kazakhstan for all crimes (A/HRC/43/5, para. 103.51; A/HRC/43/10, para. 139).

10. Some recommendations made in the context of the universal periodic review were noted by States under review.<sup>27</sup> The Central African Republic, Chad, the Comoros, and the Congo supported recommendations to abolish the death penalty.<sup>28</sup> The Central African Republic, Chad, the Congo, Côte d'Ivoire, Equatorial Guinea, Kazakhstan and Senegal supported recommendations to ratify the Second Optional Protocol,<sup>29</sup> and Nigeria supported a recommendation to establish a moratorium and step up national discussions on the question of abolition.<sup>30</sup> Viet Nam supported a recommendation to restrict the death penalty to the most serious crimes,<sup>31</sup> and Saudi Arabia to forgo the application of the death penalty or at least restrict it to the most serious crimes.<sup>32</sup> Afghanistan supported recommendations to consider instituting a moratorium on executions and to commute the death sentences of juveniles;<sup>33</sup> and Egypt to guarantee fair trial, particularly for those accused of capital crimes, and ensure that no juvenile was sentenced to death.<sup>34</sup> Malaysia supported recommendations to establish a moratorium with a view to abolition;<sup>35</sup> as did Yemen, which also supported a recommendation to ensure that the death penalty was not imposed on juveniles.<sup>36</sup> Dominica stated its willingness to receive support to enable a national dialogue on the death penalty.<sup>37</sup>

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

11. Initiatives restricting the use of the death penalty were recorded in several States. Afghanistan confirmed that the monitoring committee reviewing capital punishment cases received from prosecutors had had positive effects on the reduction of the death penalty.<sup>38</sup> In Malaysia, the double presumption of “possession and knowledge” of drugs and, consequently, of the purpose of trafficking drugs was declared unconstitutional.<sup>39</sup> Bangladesh highlighted the gradual replacement of the death penalty with other forms of punishment, such as life imprisonment.<sup>40</sup> In April 2020, Saudi Arabia announced it had ended the imposition of the death penalty on juveniles,<sup>41</sup> although concerns were raised that the decision might not apply to all crimes.<sup>42</sup> In the United States, the States of Arizona and Oregon narrowed the types of capital crimes.<sup>43</sup>

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

12. The Second Optional Protocol – the key international treaty prohibiting the use of the death penalty – had been ratified by 88 States as at 31 May 2020.

<sup>27</sup> E.g., by China (A/HRC/40/6/Add.1, para. 2); Eritrea (A/HRC/41/14/Add.1); the Democratic Republic of the Congo (A/HRC/42/5/Add.1, para. 2); Dominica (A/HRC/42/9/Add.1); Ethiopia (A/HRC/42/14/Add.1, para. 3); Qatar (A/HRC/42/15/Add.1, para. 6).

<sup>28</sup> A/HRC/40/12/Add.1, paras. 20–21; A/HRC/40/15, para. 114; A/HRC/41/12, para. 118; A/HRC/40/16/Add.1, para. 7.

<sup>29</sup> A/HRC/40/12/Add.1, paras. 20–21; A/HRC/40/15, para. 114; A/HRC/40/16/Add.1, para. 7; A/HRC/42/6, para. 140; A/HRC/42/13, para. 122; A/HRC/43/10/Add.1, para. 4; A/HRC/40/5.

<sup>30</sup> See A/HRC/40/7/Add.1.

<sup>31</sup> A/HRC/41/7/Add.1, para. 15.

<sup>32</sup> A/HRC/40/4/Add.1, paras. 18–19.

<sup>33</sup> A/HRC/41/5/Add.1, para. 5. “Juveniles” refers to persons under the age of 18 at the time of commission of the offence.

<sup>34</sup> See A/HRC/43/16/Add.1.

<sup>35</sup> A/HRC/40/11/Add.1, para. 7.

<sup>36</sup> A/HRC/41/9, para. 123.

<sup>37</sup> A/HRC/42/9, para. 10.

<sup>38</sup> CAT/C/AFG/CO/2/Add.1, paras. 18–21.

<sup>39</sup> Harm Reduction International submission.

<sup>40</sup> CAT/C/BGD/CO/1, para. 50.

<sup>41</sup> See <https://hrc.gov.sa/en-us/News/Pages/news803.aspx>.

<sup>42</sup> See <https://reprieve.org.uk/press/loopholes-in-saudi-promise-to-end-death-sentences-against-children/>.

<sup>43</sup> See <https://files.deathpenaltyinfo.org/reports/year-end/YearEndReport2019.pdf>, p. 5.

13. Human rights treaty bodies encouraged States to consider ratifying or acceding to the Second Optional Protocol, including Algeria, Angola, Bangladesh, Belarus, Cameroon, the Democratic Republic of the Congo, Equatorial Guinea, Eritrea, the Gambia, Guinea, Japan, Kuwait, the Lao People's Democratic Republic, Lesotho, Libya, Mauritania, the Niger, Nigeria, Saint Vincent and the Grenadines, Senegal, the Sudan, Tajikistan, Viet Nam and Zambia.<sup>44</sup>

14. Given the irreversible nature of the death penalty, death sentences should not be carried out when interim measures by international courts, human rights courts and commissions, and international monitoring bodies requiring a stay of execution are in place. The Human Rights Committee has noted that a failure to implement such measures is incompatible with the obligation to respect in good faith the procedure of individual communication established under the first Optional Protocol,<sup>45</sup> and that failing to comply with this obligation constitutes a serious violation of that Optional Protocol.<sup>46</sup> The Committee against Torture has highlighted that non-compliance with interim measures of protection regarding deportations constitutes a breach of article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>47</sup>

15. The Human Rights Committee regretted that Belarus continued not to comply with its requests for interim measures and that it executed individuals before the Committee had concluded its consideration of their cases.<sup>48</sup> After executions in Belarus in 2018, United Nations human rights mechanisms deplored the ongoing use of the death penalty while complaints were pending before the Committee, which had requested that the executions in question be stayed while the communications were under consideration.<sup>49</sup>

16. The Working Group on Arbitrary Detention deplored executions in Saudi Arabia, when the matters were under its consideration and it had specifically requested that the physical and mental integrity of the persons be ensured.<sup>50</sup> The Inter-American Commission on Human Rights urged the United States in August 2019 to stay an execution with respect to which precautionary measures had been granted.<sup>51</sup>

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

17. According to the Human Rights Committee, States parties to the Covenant that have abolished the death penalty, by amending their domestic laws, becoming parties to the Second Optional Protocol, which does not contain termination provisions and cannot be denounced by States parties, or adopting another international instrument obligating them to abolish the death penalty, are barred from reintroducing it. States parties may not transform into a capital offence any offence that, upon ratification of the Covenant or thereafter, did not entail the death penalty.<sup>52</sup> The Committee has stated that it is contrary to

<sup>44</sup> CCPR/C/DZA/CO/4, para. 28; CRC/C/AGO/CO/5-7, para. 40 (b); CAT/C/BGD/CO/1, para. 51; CCPR/C/BLR/CO/5, para. 28; E/C.12/CMR/CO/4, para. 67; CAT/C/COD/CO/2, para. 44; CCPR/C/GNQ/CO/1, para. 35; CCPR/C/ERI/CO/1, para. 24 (f); CCPR/C/GMB/CO/2, para. 28; CRC/C/GIN/CO/3-6, para. 50 (a); CCPR/C/GIN/CO/3, para. 28; CRC/C/JPN/CO/4-5, para. 49 (b); CERD/C/JPN/CO/10-11, para. 39; CRPD/C/KWT/CO/1, para. 21; CCPR/C/LAO/CO/1, para. 18; CRC/C/LSO/CO/2, para. 62 (a); CMW/C/LBY/CO/1, para. 17; CRC/C/MRT/CO/3-5, para. 47; CCPR/C/MRT/CO/2, para. 25 (e); CCPR/C/NER/CO/2, para. 27; CRC/C/NER/CO/3-5, para. 50; CCPR/C/NGA/CO/2, para. 25; CCPR/C/VCT/CO/2/Add.1, para. 23 (b); CCPR/C/SEN/CO/5, para. 19; CCPR/C/SDN/CO/5, para. 30; CCPR/C/TJK/CO/3, para. 28; CCPR/C/VNM/CO/3, para. 24 (a); CERD/C/ZMB/CO/17-19, para. 35.

<sup>45</sup> General comments No. 33 (2008) on the obligations of States parties under the Optional Protocol to the International Covenant on Civil and Political Rights, para. 19, and No. 36, para. 46.

<sup>46</sup> *Selyun v. Belarus* (CCPR/C/115/D/2289/2013), paras. 5.1–5.5; CCPR/C/BLR/CO/5, para. 8.

<sup>47</sup> General comment No. 4 (2017) on the implementation of article 3 in the context of article 22, para. 37.

<sup>48</sup> CCPR/C/BLR/CO/5, para. 12.

<sup>49</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24009&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24009&LangID=E).

<sup>50</sup> A/HRC/WGAD/2019/26 and A/HRC/WGAD/2019/56.

<sup>51</sup> See [www.oas.org/en/iachr/media\\_center/PReleases/2019/211.asp](http://www.oas.org/en/iachr/media_center/PReleases/2019/211.asp).

<sup>52</sup> General comment No. 36, para. 34.

the object and purpose of article 6 of the Covenant for State parties to take steps to increase de facto the rate of use of and the extent to which they resort to the death penalty.<sup>53</sup>

18. Several laws were adopted providing for the death penalty or extending its use: in Bangladesh and China for drug-related offences,<sup>54</sup> in Egypt for funding terrorism<sup>55</sup> and drug offences,<sup>56</sup> in Ethiopia for acts of terrorism,<sup>57</sup> in India for rape of girls younger than 12 years old<sup>58</sup> and sexual offences against children,<sup>59</sup> and in Nigeria for kidnapping and cattle rustling.<sup>60</sup> In the United States, the States of Alabama and Tennessee expanded the death penalty.<sup>61</sup>

19. Officials in the Philippines<sup>62</sup> and Turkey<sup>63</sup> stated that reintroduction of the death penalty was being considered. Some States resumed or sought to resume executions. India carried out its first executions in five years in 2020. In 2019, Bahrain and Bangladesh resumed executions after not carrying out any in 2018.<sup>64</sup> It was also reported that executions were carried out in Taiwan Province of China, in 2018, for the first time since 2016.<sup>65</sup> In 2019, the Attorney General of Indonesia stated plans to resume the use of the death penalty.<sup>66</sup> The United States announced its intention to resume federal executions in 2019, after 16 years.<sup>67</sup>

20. The Human Rights Committee expressed concern about information that, in Nigeria, some states were considering reinstating executions.<sup>68</sup> The United Nations High Commissioner for Human Rights expressed concern about steps taken by Sri Lanka to resume implementation of the death penalty after over 40 years of de facto moratorium.<sup>69</sup>

### III. Information on the use of the death penalty

21. In its resolution 42/24, the Human Rights Council called upon States that had not yet abolished the death penalty to make available relevant information, disaggregated by gender, age, nationality and other applicable criteria, with regard to their use of the death penalty, which could contribute to possible informed and transparent national and international debates, including on the obligations of States with regard to the use of the death penalty. On the World Day against the Death Penalty in 2019, the European Union and the Council of Europe jointly recognized the importance of a fully informed public debate about the death penalty, and emphasized that the more people knew about the

<sup>53</sup> Ibid., para. 50.

<sup>54</sup> CAT/C/BGD/CO/1, para. 50;  
www.incb.org/documents/Publications/AnnualReports/AR2019/Annual\_Report\_Chapters/AR2019\_C  
hapter\_III.pdf, para. 629.

<sup>55</sup> See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25787&LangID=E;  
[https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25072%  
C2%A0%C2%A0](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25072%C2%A0%C2%A0).

<sup>56</sup> See [www.hri.global/files/2020/02/28/HRI\\_DeathPenaltyReport2019.pdf](http://www.hri.global/files/2020/02/28/HRI_DeathPenaltyReport2019.pdf)

<sup>57</sup> A/HRC/44/49/Add.1, para. 27.

<sup>58</sup> See www.amnesty.org/en/documents/act50/9870/2019/en/, p. 21.

<sup>59</sup> See www.amnesty.org/en/documents/act50/1847/2020/en/, p. 25.

<sup>60</sup> Reportedly in Katsina (both crimes) and Taraba (kidnapping). See  
www.amnesty.org/en/documents/act50/1847/2020/en/, p. 49.

<sup>61</sup> See <https://files.deathpenaltyinfo.org/reports/year-end/YearEndReport2019.pdf>, p. 5.

<sup>62</sup> See www.pna.gov.ph/articles/1075720.

<sup>63</sup> See www.osce.org/odihr/430268?download=true, pp. 51–52.

<sup>64</sup> See www.amnesty.org/en/documents/act50/1847/2020/en/, p. 9.

<sup>65</sup> See www.amnesty.org/en/documents/act50/9870/2019/en/, p. 26.

<sup>66</sup> See [www.thejakartapost.com/news/2019/10/27/rights-groups-decry-new-attorney-generals-plan-to-  
resume-death-penalty.html](http://www.thejakartapost.com/news/2019/10/27/rights-groups-decry-new-attorney-generals-plan-to-resume-death-penalty.html).

<sup>67</sup> See [www.justice.gov/opa/pr/federal-government-resume-capital-punishment-after-nearly-two-  
decade-lapse](http://www.justice.gov/opa/pr/federal-government-resume-capital-punishment-after-nearly-two-decade-lapse); [www.oas.org/en/iachr/media\\_center/PReleases/2019/201.asp](http://www.oas.org/en/iachr/media_center/PReleases/2019/201.asp).

<sup>68</sup> CCPR/C/NGA/CO/2, para. 24.

<sup>69</sup> A/HRC/43/19, para. 35;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24686>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24049>.

execution process, the arguments for abolition and alternatives to capital punishment, the more they agreed with abolition.<sup>70</sup>

22. It remains difficult to obtain up-to-date and accurate global figures on the application of the death penalty. Belarus, China and Viet Nam continue to classify data on the use of the death penalty as a State secret,<sup>71</sup> and little to no information is available on some countries.<sup>72</sup> United Nations treaty bodies have urged Viet Nam to establish an effective system for collecting statistical data at the national level, which should include disaggregated information on the use of the death penalty and the number of prisoners on death row,<sup>73</sup> and publish official figures regarding death sentences and executions, disaggregated by sex, age, ethnicity, religion and crime.<sup>74</sup> In the United States, research was undertaken on laws and policies that make information about executions inaccessible to the public, pharmaceutical companies and prisoners.<sup>75</sup>

23. In some States, information regarding the date of executions continues to be withheld from family members and lawyers. The Human Rights Committee recalled that failure to provide relatives with information on the circumstances of the death of an individual could violate their rights under article 7 of the Covenant, as could failure to inform them of the location of the body and of the date on which the State party planned to carry out the death penalty.<sup>76</sup> In its submission, Saudi Arabia indicated that the authorities buried the body of those it executed; reports indicate that the bodies of some individuals who are executed are withheld from their families.<sup>77</sup> With regard to Belarus, the Human Rights Committee expressed concern about individuals on death row and their relatives not being notified about the date of execution, the body of the executed individuals not being returned to the relatives and the burial site not being disclosed,<sup>78</sup> and concluded that such practice constituted a violation of article 7 of the Covenant.<sup>79</sup> With regard to Viet Nam, the Committee recommended that reasonable advance notice of the scheduled date and time of execution be given to death row inmates and their families.<sup>80</sup> Reportedly, the new criminal law enforcement act allows family members to claim the bodies for burial after the executions, while not providing for a final meeting between the prisoners and their families.<sup>81</sup> In China, courts of first instance must notify the prisoner and relatives of the imminent execution and allow them to meet. At the discretion of the court, the person may also meet their extended family and friends for the last time.<sup>82</sup>

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

24. In its resolution 42/24, the Human Rights Council reaffirmed the safeguards guaranteeing the protection of persons facing the death penalty – the internationally recognized minimum standards to be observed by States that continue to impose capital punishment.<sup>83</sup> The Human Rights Committee adopted general comment No. 36 on the right to life, elaborating upon the term “most serious crimes”, mandatory death sentences,

<sup>70</sup> See <https://rm.coe.int/2019-joint-declaration-final-003-/16809818b6>.

<sup>71</sup> See [www.amnesty.org/en/documents/act50/9870/2019/en/](http://www.amnesty.org/en/documents/act50/9870/2019/en/), p. 6; [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 6.

<sup>72</sup> See [www.amnesty.org/en/documents/act50/9870/2019/en/](http://www.amnesty.org/en/documents/act50/9870/2019/en/), p. 6 (e.g., China, the Democratic People's Republic of Korea, the Lao People's Democratic Republic and the Syrian Arab Republic).

<sup>73</sup> CAT/C/VNM/CO/1, para. 42.

<sup>74</sup> CCPR/C/VNM/CO/3, para. 24 (e).

<sup>75</sup> See <https://files.deathpenaltyinfo.org/documents/pdf/SecrecyReport-2.f1560295685.pdf>.

<sup>76</sup> General comment No. 36, para. 56.

<sup>77</sup> European Saudi Organization for Human Rights submission.

<sup>78</sup> CCPR/C/BLR/CO/5, para. 27 (b).

<sup>79</sup> *Grunov and Grunova v. Belarus* (CCPR/C/123/D/2375/2014-CCPR/C/123/D/2690/2015), paras. 8.2 and 8.7.

<sup>80</sup> CCPR/C/VNM/CO/3, para. 24 (c).

<sup>81</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 31.

<sup>82</sup> *Ibid.*, p. 25.

<sup>83</sup> See Economic and Social Council resolution 1984/50, annex; E/2015/49 and Corr.1, para. 60.

methods of execution, deportation and extradition,<sup>84</sup> fair trial guarantees, and protection of juveniles, persons with disabilities and pregnant women.<sup>85</sup>

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

25. In accordance with article 6 of the International Covenant on Civil and Political Rights, States should only impose the death penalty for the “most serious crimes”, a term that must be read restrictively and appertain only to crimes of extreme gravity involving intentional killing. A limited degree of involvement or of complicity in the commission of even the most serious crimes cannot justify the imposition of the death penalty.<sup>86</sup>

26. During the reporting period, the death sentence was reportedly provided for offences that did not meet this threshold, including drug-related offences,<sup>87</sup> economic crimes<sup>88</sup> such as corruption,<sup>89</sup> espionage,<sup>90</sup> kidnapping,<sup>91</sup> rape,<sup>92</sup> apostasy,<sup>93</sup> sodomy, adultery and trafficking,<sup>94</sup> and different forms of treason or crimes against the State.<sup>95</sup>

27. Special procedure mandate holders of the Human Rights Council were “seriously concerned that blasphemy charges are still being brought [in Pakistan] against people legitimately exercising their rights to freedom of thought, conscience, religion and expression”.<sup>96</sup> The Human Rights Committee was particularly concerned that in Bahrain the death penalty was imposed for drug trafficking, deliberately obstructing funerals or memorial services, certain crimes against property under aggravating circumstances and any offence punishable by life imprisonment under common law if that offence was perpetrated for the purposes of terrorism.<sup>97</sup> The Committee recommended that the Lao People’s Democratic Republic undertake a comprehensive review of relevant legislation to ensure that the death penalty could be imposed only for the most serious crimes.<sup>98</sup>

28. Several States provided for the death penalty for terrorism-related crimes, including against juvenile offenders in Pakistan.<sup>99</sup> The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism expressed his grave concern about the lack of due process in terrorism cases in Saudi Arabia, which

<sup>84</sup> Ireland highlighted that extradition was not to be granted for an offence that was punishable by death under the law of the requesting country unless the requesting country gives such assurance as the Minister for Justice and Equality considers sufficient that the death penalty will not be carried out. Armenia indicated that a person accused of committing a crime could not be extradited to another country if the legislation in that country envisaged the death penalty for that crime, without Armenia receiving assurances that the death penalty would not be implemented.

<sup>85</sup> See also E/2020/53, paras. 77–80. Some submissions (Bahrain, Egypt, Iraq, Lebanon, Saudi Arabia and Qatar) highlighted how long the execution of pregnant women was suspended for. See further [www.deathpenaltyworldwide.org/publication/judged-more-than-her-crime](http://www.deathpenaltyworldwide.org/publication/judged-more-than-her-crime).

<sup>86</sup> General comment No. 36, para. 35.

<sup>87</sup> Viet Nam (CCPR/C/VNM/CO/3, para. 23); Singapore ([www.sps.gov.sg/docs/default-source/stats-release/sps-annual-stats-release-for-2019\\_713kb.pdf](http://www.sps.gov.sg/docs/default-source/stats-release/sps-annual-stats-release-for-2019_713kb.pdf)).

<sup>88</sup> Viet Nam (CCPR/C/VNM/CO/3, para. 23).

<sup>89</sup> China (see [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 13).

<sup>90</sup> The Sudan (CCPR/C/SDN/CO/5, para. 29).

<sup>91</sup> The Islamic Republic of Iran (see [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 13).

<sup>92</sup> Egypt, Iran (Islamic Republic of) and Saudi Arabia (see [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 13).

<sup>93</sup> Mauritania and the Sudan (CCPR/C/MRT/CO/2, para. 40; CAT/C/MRT/CO/2, para. 34; CCPR/C/SDN/CO/5, para. 29).

<sup>94</sup> The Sudan (CCPR/C/SDN/CO/5, para. 29).

<sup>95</sup> Pakistan and Saudi Arabia (see [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/) p. 13).

<sup>96</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25455](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25455). See also [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23401&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23401&LangID=E); <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24916>.

<sup>97</sup> CCPR/C/BHR/CO/1, para. 31.

<sup>98</sup> CCPR/C/LAO/CO/1, paras. 17–18.

<sup>99</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24140>.

was particularly acute in cases involving the imposition of the death penalty.<sup>100</sup> He was also concerned at the harsh punishment, including the death penalty, provided in the new antiterrorism legislation in Ethiopia.<sup>101</sup> The Committee on Economic, Social and Cultural Rights urged Cameroon to amend antiterrorism legislation under which the death penalty was imposed for acts likely to disrupt the normal operation of public services or the provision of essential services to the population or to create a crisis situation among the population.<sup>102</sup> In communications to Armenia, Belgium, Iraq, Kyrgyzstan, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States, mandate holders raised information received concerning the risks to foreign nationals facing prosecution and trials for capital offences under the antiterrorism law of Iraq.<sup>103</sup>

29. Consensual same-sex conduct remained punishable by death in some States.<sup>104</sup> 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 Covenant, including homosexuality. States that retain the death penalty for such offences commit a violation of article 6, read alone and in conjunction with article 2 (2) of the Covenant.<sup>105</sup> The Committee stated that Mauritania should decriminalize sexual relations between consenting adults of the same sex and release anyone currently thus detained.<sup>106</sup> Mandate holders urged Brunei Darussalam to revoke the death penalty by stoning for consensual same-sex conduct and adultery.<sup>107</sup> The State subsequently indicated that “a de facto moratorium on the execution of the death penalty for cases under the common law” had been extended to these cases.<sup>108</sup>

## B. Prohibition of the mandatory use of the death penalty

30. According to the Human Rights Committee, the mandatory use of the death penalty constitutes an arbitrary deprivation of life, in violation of article 6 (1) of the International Covenant on Civil and Political Rights, where it is imposed without any possibility of taking into account the defendant’s personal circumstances or the circumstances of the particular offence. Mandatory death sentences are arbitrary in nature<sup>109</sup> and not compatible with the limitation of capital punishment to the “most serious crimes”.<sup>110</sup>

31. During the reporting period, mandatory death sentences reportedly continued to be imposed or provided for in law, including in Ghana, Iran (Islamic Republic of), Malaysia,

<sup>100</sup> A/HRC/40/52/Add.2, para. 48.

<sup>101</sup> A/HRC/44/49/Add.1, para. 27.

<sup>102</sup> E/C.12/CMR/CO/4, paras. 38–39.

<sup>103</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24248>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24851>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24154>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24211>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23990>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23988>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23985>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24858>

See also A/HRC/40/52/Add.5, para. 79.

<sup>104</sup> See <https://cdn.penalreform.org/wp-content/uploads/2020/05/Global-Prison-Trends-2020-Penal-Reform-International-Second-Edition.pdf>, p. 28.

<sup>105</sup> General comment No. 36, para. 36.

<sup>106</sup> CCPR/C/MRT/CO/2, para. 13.

<sup>107</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24522>.

<sup>108</sup> A/HRC/42/11/Add.1, p. 4.

<sup>109</sup> General comment No. 36, para. 37; A/HRC/39/19, para. 24.

<sup>110</sup> E/2015/49 and Corr.1, para. 63.

Myanmar, Nigeria, Pakistan, Saudi Arabia, Singapore,<sup>111</sup> Sri Lanka,<sup>112</sup> the Sudan<sup>113</sup> and Trinidad and Tobago.<sup>114</sup>

32. Some initiatives were undertaken to remove the mandatory death penalty. Barbados removed it as punishment for murder, and established a procedure for reviewing death sentences imposed under the Offences against the Person Act.<sup>115</sup> In Uganda, the mandatory death penalty was removed from the Penal Code, the Anti-Terrorism Act, 2002 and other laws.<sup>116</sup> After announcing it would abolish the death penalty for all crimes and impose a moratorium on all executions,<sup>117</sup> Malaysia clarified that it would only repeal the mandatory death penalty for 11 specific criminal offences. A special committee submitted a report on the reform in February 2020.<sup>118</sup> In Kenya, the task force on the review of the mandatory death penalty<sup>119</sup> recommended that Parliament abolish the death penalty entirely and if not abolished, that it should only be reserved for the rarest of rare cases involving intentional and aggravated acts of killing.<sup>120</sup> Reportedly, Malawian courts have held 158 resentencing hearings further to the removal of the mandatory death penalty for murder, and the sentences of each prisoner have been reduced to life imprisonment.<sup>121</sup>

33. The African Court on Human and Peoples' Rights found that the mandatory death sentence for murder in the United Republic of Tanzania constituted a violation of the right to life and fair trial set out in the African Charter, and ordered the State to repeal that provision.<sup>122</sup>

### C. Fair trial guarantees

34. According to the Human Rights Committee, the imposition of a death sentence upon the conclusion of a trial in which the provisions of article 14 of the Covenant have not been respected constitutes a violation of the right to life.<sup>123</sup> This might involve the use of forced confessions, lack of effective representation during all stages of the criminal proceedings, failure to respect the presumption of innocence, general lack of fairness of the criminal process, or lack of independence or impartiality of the court.<sup>124</sup> According to the Committee, other serious procedural flaws may render the imposition of the death penalty contrary to article 6, for example a failure to promptly inform detained foreign nationals of their right to consular notification pursuant to the Vienna Convention on Consular Relations.<sup>125</sup>

35. Some States provided information regarding legal guarantees and safeguards in their jurisdictions.<sup>126</sup> In China, the Supreme People's Court issued guidance introducing, *inter alia*, the right to legal counsel for defendants during the Court's review of the case, and notification of the verdict within five days after the decision is issued.<sup>127</sup> Furthermore,

<sup>111</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 13. See also CCPR/C/NGA/CO/2, para. 24.

<sup>112</sup> Freedoms Collective, Sri Lanka, and Reprieve, United Kingdom, submission.

<sup>113</sup> CCPR/C/SDN/CO/5, para. 29.

<sup>114</sup> See [www.amnesty.org/en/documents/act50/9870/2019/en/](http://www.amnesty.org/en/documents/act50/9870/2019/en/), p. 16.

<sup>115</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 17.

<sup>116</sup> The Law Revision (Penalties in Criminal Matters) Miscellaneous (Amendment) Act, 2019.

<sup>117</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24150>.

<sup>118</sup> Harm Reduction International submission.

<sup>119</sup> Established further to the determination that the mandatory death penalty for murder was unconstitutional (Supreme Court of Kenya, *Francis Karioko Muruatetu & another v. Republic et al.* (2017)).

<sup>120</sup> See [www.statelaw.go.ke/wp-content/uploads/2019/11/EDITED-Final-Nov-5th-DPTF-REPORT.pdf](http://www.statelaw.go.ke/wp-content/uploads/2019/11/EDITED-Final-Nov-5th-DPTF-REPORT.pdf).

<sup>121</sup> Community of Sant'Egidio, Malawi and Reprieve, United Kingdom submission.

<sup>122</sup> See [www.african-court.org/en/images/Cases/Judgment/Judgment\\_Summary\\_Application\\_007-2015-Ally\\_Rajabu\\_and\\_Others\\_v\\_Tanzania\\_Final.pdf](http://www.african-court.org/en/images/Cases/Judgment/Judgment_Summary_Application_007-2015-Ally_Rajabu_and_Others_v_Tanzania_Final.pdf).

<sup>123</sup> General comments No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 59, and No. 36, para. 41. See also A/HRC/39/19, para. 29.

<sup>124</sup> General comment No. 36, para. 41.

<sup>125</sup> *Ibid.*, para. 42.

<sup>126</sup> Bahrain, Egypt, Iraq, Lebanon and Saudi Arabia.

<sup>127</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 25.

lower courts are required to discuss with the judicial committee of the Supreme People's Court specified cases where the death penalty is a possible sentence.<sup>128</sup>

36. During the reporting period, the Secretary-General noted that the use of capital punishment remained a troubling aspect of the criminal justice system in South Sudan, in particular in light of the limited ability of the justice system to fully comply with minimum due process and fair trial safeguards.<sup>129</sup> The High Commissioner and United Nations human rights mechanisms expressed concern over the lack of fair trial in certain death penalty cases in Bahrain,<sup>130</sup> Belarus,<sup>131</sup> China,<sup>132</sup> Egypt,<sup>133</sup> Iran (Islamic Republic of),<sup>134</sup> Iraq,<sup>135</sup> Viet Nam,<sup>136</sup> Saudi Arabia<sup>137</sup> and Yemen.<sup>138</sup> The High Commissioner also highlighted the situation of individuals around the world whose poverty made them especially vulnerable to injustice generated by failures in justice systems and the rule of law.<sup>139</sup> United Nations mandate holders highlighted that most women and girls on death row came from backgrounds of severe socioeconomic deprivation and many were illiterate, which had a devastating impact on their ability to participate in their own defence and to obtain effective legal representation.<sup>140</sup>

37. Some death sentences have reportedly been imposed on the basis of confessions obtained under duress or torture. The Human Rights Committee was concerned about such allegations in Bahrain,<sup>141</sup> and the High Commissioner and mandate holders called on Bahrain to prevent a number of executions for such reasons.<sup>142</sup> The Committee against Torture raised similar concerns<sup>143</sup> in relation to Viet Nam, as did mandate holders regarding Egypt<sup>144</sup> and Iran (Islamic Republic of).<sup>145</sup>

<sup>128</sup> Ibid.

<sup>129</sup> S/2019/722, para. 62.

<sup>130</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24236;www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25543>.

<sup>131</sup> CCPR/C/BLR/CO/5, para. 27 (a); *Ivanov v. Belarus* (CCPR/C/126/D/2655/2015); *Yakovitsky and Yakovitskaya v. Belarus* (CCPR/C/128/D/2789/2016).

<sup>132</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25454&LangID=E;A/HRC/WGAD/2019/72](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25454&LangID=E;A/HRC/WGAD/2019/72).

<sup>133</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23572&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23572&LangID=E).

<sup>134</sup> A/HRC/43/61, paras. 4 and 47;

[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23512&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23512&LangID=E).

<sup>135</sup> See

[www.ohchr.org/Documents/Countries/IQ/UNAMI\\_Report\\_HRAdministrationJustice\\_Iraq\\_28January2020.pdf](http://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAdministrationJustice_Iraq_28January2020.pdf).

<sup>136</sup> CCPR/C/VNM/CO/3, para. 23.

<sup>137</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24633;www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23795&A/HRC/WGAD/2019/26;A/HRC/WGAD/2019/56>.

<sup>138</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24816&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24816&LangID=E).

<sup>139</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23631;www.ohchr.org/EN/NewsEvents/Pages/DeathPenaltyIsABane.aspx](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23631;www.ohchr.org/EN/NewsEvents/Pages/DeathPenaltyIsABane.aspx).

<sup>140</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23705&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23705&LangID=E).

<sup>141</sup> CCPR/C/BHR/CO/1, para. 31.

<sup>142</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24863&LangID=E;www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25543;www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24635;www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24855&LangID=E;https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25052](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24863&LangID=E;www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25543;www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24635;www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24855&LangID=E;https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25052).

<sup>143</sup> CAT/C/VNM/CO/1, para. 28.

<sup>144</sup> A/HRC/WGAD/2019/65; [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24204](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24204). See also [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24195&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24195&LangID=E).

<sup>145</sup> A/HRC/WGAD/2019/32.

38. Submissions highlighted fair trial concerns in Cameroon,<sup>146</sup> Egypt<sup>147</sup> and Sri Lanka.<sup>148</sup> Concerns were also reported in Bangladesh, China, Indonesia, Iraq, Malaysia, Pakistan, Singapore and Viet Nam.<sup>149</sup> In Egypt and Japan, executions were reportedly carried out while appeals were pending.<sup>150</sup> In Singapore, legislative amendments limited the grounds on which convicted persons could apply to the courts after their conviction and sentence were finalized.<sup>151</sup> In the United States, the State of Tennessee removed the right of appeal to the court of criminal appeals and provided instead for automatic direct review by the Tennessee Supreme Court.<sup>152</sup> In a study on legal aid in the region, the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights noted that individuals facing the death penalty might not have been legally represented during investigation and interrogation stages, leading to possible due process violations having occurred unchecked.<sup>153</sup>

#### D. Right to seek pardon or commutation

39. Article 6 (4) of the International Covenant on Civil and Political Rights requires States parties to allow individuals sentenced to death to seek pardon or commutation and to ensure that amnesties, pardons and commutations can be granted to them, in appropriate circumstances. According to the Human Rights Committee, States are required to ensure that sentences are not carried out before requests for pardon or commutation have been meaningfully considered and conclusively decided upon according to applicable procedures. Pardon or commutation procedures must offer certain essential guarantees, and should not afford the families of victims of crime a preponderant role in determining whether the death sentence should be carried out. It is contrary to the object and the purpose of article 6 for States parties to reduce the number of pardons or commutations they grant.<sup>154</sup>

40. Commutations and pardons were granted during the reporting period, including in Bangladesh, China, Egypt, the Gambia, Ghana, Guyana, India, Indonesia, Iraq, Kuwait, Malaysia, Mauritania, Maldives, Morocco, Nigeria, Oman, Pakistan, Singapore, the Sudan, Thailand, the United Arab Emirates, the United States and Zambia.<sup>155</sup> In the Niger, a presidential decree granted commutation of death sentences to life imprisonment.<sup>156</sup> The President of Zimbabwe commuted the sentence of prisoners who had spent more than 10 years on death row to life imprisonment.<sup>157</sup> In 2018, the High Court of the Eastern Caribbean Supreme Court commuted the death sentence of the last man on death row in Saint Kitts and Nevis,<sup>158</sup> including because of the denial of the possibility to make representations before the Advisory Committee on the Prerogative of Mercy. In 2019, Barbados removed a provision that granted the Governor General the power to set time limits on petitions for mercy.<sup>159</sup>

<sup>146</sup> Cornell Center on the Death Penalty Worldwide submission.

<sup>147</sup> Egyptian Commission for Rights and Freedoms submission.

<sup>148</sup> Freedoms Collective/Reprieve submission.

<sup>149</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 12; [www.ecpm.org/wp-content/uploads/rapportindonesie\\_gb.pdf](http://www.ecpm.org/wp-content/uploads/rapportindonesie_gb.pdf); [www.fidh.org/en/issues/death-penalty/pakistan-poor-and-marginalized-suffer-disproportionately-from-capital](http://www.fidh.org/en/issues/death-penalty/pakistan-poor-and-marginalized-suffer-disproportionately-from-capital).

<sup>150</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 26; [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24204](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24204).

<sup>151</sup> Criminal Justice Reform Act 2018 (No. 19 of 2018).

<sup>152</sup> See <https://files.deathpenaltyinfo.org/reports/year-end/YearEndReport2019.pdf>, pp. 5–6.

<sup>153</sup> See <https://aichr.org/wp-content/uploads/2019/09/AICHR-Thematic-Study-on-Legal-Aid-for-web.pdf>, p. 7.

<sup>154</sup> General comment No. 36, paras. 47 and 50.

<sup>155</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 12; CAT/C/MDV/CO/1, para. 33.

<sup>156</sup> CCPR/C/NER/CO/2, para. 26;

[https://www.achpr.org/public/Document/file/English/Intersession%20Report-64os\\_Comm%20Kayitesi%20DP\\_ENG.pdf](https://www.achpr.org/public/Document/file/English/Intersession%20Report-64os_Comm%20Kayitesi%20DP_ENG.pdf), para. 12.

<sup>157</sup> Southern Africa Litigation Centre submission.

<sup>158</sup> *Evanson Mitcham v. Attorney General of Saint Christopher and Nevis*, Claim No. SKBHCV2015/0129, Judgment, 2018.

<sup>159</sup> Constitution (Amendment) Act 2019.

41. Nevertheless, some individuals were denied their rights to seek pardon or commutation.<sup>160</sup> Reportedly in Malaysia the arbitrariness and secrecy that surround the handling of pardon petitions have aggravated the mental trauma of prisoners and exacerbated systemic flaws that undermine their right to this review.<sup>161</sup> In Pakistan, while the authority to pardon death row defendants lies with the President, in practice, a policy of blanket refusal of clemency applications is allegedly in place and no clemency applications have been granted.<sup>162</sup> Reportedly, the mercy petitions procedure was reformed in 2019 and requires petitions to be completed by prison authorities on an online platform and annexed with necessary documentation.<sup>163</sup>

## E. Methods of execution and prohibition of public executions

42. In resolution 2005/59, the Commission on Human Rights urged all States that still maintained the death penalty “to ensure that, where capital punishment still occurs, it shall be carried out so as to inflict the minimum possible suffering and shall not be carried out in public or in any other degrading manner, and to ensure that any application of particularly cruel or inhuman means of execution, such as stoning, be stopped immediately”. 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 cause the least possible physical and mental suffering<sup>164</sup> and respect article 7 of the Covenant, which prohibits certain methods of execution; the Committee has stated that those include injection of untested lethal drugs and public executions.<sup>165</sup> Failure to respect article 7 would render the execution arbitrary in nature and thus also in violation of article 6.<sup>166</sup>

43. A small number of States continued to conduct public executions during the reporting period, including Iran (Islamic Republic of)<sup>167</sup> and Saudi Arabia, where the United Nations High Commissioner for Human Rights noted that the body of one man who had been beheaded was subsequently put on public display.<sup>168</sup> The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism considered that the use by Saudi Arabia of the death penalty was archaic, and inhuman and degrading, not only for the person who was executed but for all those who contributed to it or took part as spectators. It demeaned and degraded the people of Saudi Arabia as a whole.<sup>169</sup> During the universal periodic review, the Democratic People’s Republic of Korea indicated that executions were carried out in public only in rare cases, after strong requests by the victim’s family and other concerned persons.<sup>170</sup>

44. The Human Rights Committee urged the Sudan to revoke stoning and crucifixion as officially sanctioned punishment,<sup>171</sup> and Mauritania to remove all references to stoning as a method of execution.<sup>172</sup> In relation to Brunei Darussalam, mandate holders recalled that stoning as a method of execution violated the prohibition of torture and that that form of sanction was, beyond dispute, a violation of the prohibition of cruel, inhuman and degrading treatment or punishment.<sup>173</sup>

45. In the United States, the Supreme Court declared in one case that the Constitution’s Eighth Amendment “does not guarantee a prisoner a painless death”, with a method of

<sup>160</sup> See [www.hri.global/files/2020/02/28/HRI\\_DeathPenaltyReport2019.pdf](http://www.hri.global/files/2020/02/28/HRI_DeathPenaltyReport2019.pdf), pp. 23–24.

<sup>161</sup> See [www.amnesty.org/download/Documents/ACT5010782019ENGLISH.pdf](http://www.amnesty.org/download/Documents/ACT5010782019ENGLISH.pdf), p. 44.

<sup>162</sup> CCPR/C/PAK/CO/1, para. 17.

<sup>163</sup> Justice Project Pakistan submission.

<sup>164</sup> General comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, para. 6.

<sup>165</sup> General comment No. 36, para. 40.

<sup>166</sup> *Ibid.*

<sup>167</sup> A/HRC/43/61, para. 17.

<sup>168</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24510&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24510&LangID=E).

<sup>169</sup> A/HRC/40/52/Add.2, para. 54.

<sup>170</sup> A/HRC/42/10, para. 75.

<sup>171</sup> CCPR/C/SDN/CO/5, para. 30.

<sup>172</sup> CCPR/C/MRT/CO/2, paras. 24–25.

<sup>173</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24522>.

execution not unconstitutional unless it “intensified the sentence of death with a (cruel) ‘superadd[ition]’ of ‘terror, pain, or disgrace.’”<sup>174</sup> The Special Rapporteur on extrajudicial, summary or arbitrary executions expressed utmost concern as to the likelihood that lethal injection in that case might inflict severe pain and suffering that might amount to cruel, inhuman or degrading treatment or punishment, or even torture.<sup>175</sup> The African Court on Human and Peoples’ Rights found that hanging – the method of execution in the United Republic of Tanzania – amounted to torture and inhuman and degrading treatment given the suffering inherent thereto, and that due to the arbitrary nature of the mandatory imposition of the death penalty, its execution was consequently and inevitably in violation of the right to dignity in respect of the prohibition of torture and inhuman and degrading treatment.<sup>176</sup>

46. Initiatives with regard to methods of execution in the United States were undertaken during the reporting period. The Governor of the State of Ohio announced there would be no more executions until a new protocol was adopted and upheld by the courts, in light of a court finding that the current drug protocol “will almost certainly subject [prisoners] to severe pain and needless suffering”.<sup>177</sup>

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

### A. Children

47. Pursuant to article 6 of the International Covenant on Civil and Political Rights and article 37 (a) of the Convention on the Rights of the Child, the death penalty cannot be imposed for offences committed by persons under 18. The Commission on Human Rights reaffirmed that international law affirmed that the execution of child offenders was in contravention of customary international law.<sup>178</sup> The Human Rights Committee stated that that necessarily implied that such persons could never face the death penalty for that offence, regardless of their age at the time of sentencing or at the time foreseen for carrying out the sentence<sup>179</sup> and the Committee on the Rights of the Child reiterated that the explicit and decisive criterion was the age at the time of the commission of the offence.<sup>180</sup> If there is no reliable and conclusive proof that the person was not a juvenile, he or she will have the right to the benefit of the doubt and the death penalty cannot be imposed.<sup>181</sup>

48. Nevertheless, sentences of death for offences committed by persons under 18 reportedly remains lawful in some countries,<sup>182</sup> and during the reporting period juvenile offenders were believed to be on death row in the Democratic Republic of the Congo,<sup>183</sup>

<sup>174</sup> *Bucklew v. Precythe* (2019), p. 12, available at [www.supremecourt.gov/opinions/18pdf/17-8151\\_new\\_0pm1.pdf](http://www.supremecourt.gov/opinions/18pdf/17-8151_new_0pm1.pdf). The Inter-American Commission on Human Rights considered the rare medical condition and the significant risk that the execution would cause excessive suffering incompatible with the American Declaration of the Rights and Duties of Man (see [www.oas.org/en/iachr/decisions/2018/USPU12958EN.pdf](http://www.oas.org/en/iachr/decisions/2018/USPU12958EN.pdf)).

<sup>175</sup> See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24889>.

<sup>176</sup> See [www.african-court.org/en/images/Cases/Judgment/Judgment\\_Summary\\_Application\\_007-2015-Ally\\_Rajabu\\_and\\_Others\\_v\\_Tanzania\\_Final.pdf](http://www.african-court.org/en/images/Cases/Judgment/Judgment_Summary_Application_007-2015-Ally_Rajabu_and_Others_v_Tanzania_Final.pdf).

<sup>177</sup> See <https://deathpenaltyinfo.org/news/ohio-governor-halts-cruel-and-unusual-lethal-injection-executions>; [www.americanbar.org/content/dam/aba/publications/criminaljustice/2019/capital\\_punishment\\_2019.pdf](http://www.americanbar.org/content/dam/aba/publications/criminaljustice/2019/capital_punishment_2019.pdf).

<sup>178</sup> Resolution 2003/67.

<sup>179</sup> General comment No. 36, para. 48.

<sup>180</sup> General comment No. 24 (2019) on children’s rights in the child justice system, para. 79.

<sup>181</sup> Human Rights Committee, general comment No. 36, para. 48; Committee on the Rights of the Child, general comment No. 24, para. 79.

<sup>182</sup> Bahrain indicated that the death penalty was prohibited for persons under the age of 15 at the time of the offence. In Sri Lanka, persons under 18 should not be sentenced to death where they are under 18 at the time of pronouncement of the sentence, as opposed to the time of alleged commission of the offence (Freedoms Collective/Reprieve submission).

<sup>183</sup> CAT/C/COD/CO/2, para. 36.

Egypt,<sup>184</sup> Iran (Islamic Republic of),<sup>185</sup> Maldives,<sup>186</sup> Mauritania,<sup>187</sup> Pakistan,<sup>188</sup> Saudi Arabia<sup>189</sup> and South Sudan.<sup>190</sup> Reportedly, the death penalty was carried out against juvenile offenders in Iran (Islamic Republic of), Saudi Arabia and South Sudan.<sup>191</sup>

49. The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran deeply regretted that the State continued to sentence children to death “far more often than any other State”,<sup>192</sup> and encouraged the Government to continue to review existing policies with a view to prohibiting the execution of child offenders.<sup>193</sup> Mandate holders and the Committee on the Rights of the Child called on the Islamic Republic of Iran to immediately halt the practice of executing child offenders, citing serious concerns for up to 90 juveniles on death row.<sup>194</sup> The Islamic Republic of Iran repeatedly stated that it generally sought, through the Reconciliation Commission and the provision of cash assistance, to “encourage reconciliation by helping the convict to pay *diya*”.<sup>195</sup>

50. Human Rights Council mandate holders expressed grave concern at death sentences issued against juveniles in Saudi Arabia,<sup>196</sup> South Sudan<sup>197</sup> and Pakistan.<sup>198</sup> While Pakistan introduced age determination protocols,<sup>199</sup> it reportedly does not accord the benefit of doubt to the individual concerned in case of conflicting or inconclusive evidence about his or her age at the time of the commission of the offence.<sup>200</sup> The Committee on the Rights of the Child recommended that Bahrain<sup>201</sup> and Tonga<sup>202</sup> explicitly prohibit the imposition of the death penalty for individuals who were under the age of 18 when they committed the crime. The Human Rights Committee urged the Sudan to ensure that the death penalty was never imposed for crimes committed when the person concerned was under 18 years of age.<sup>203</sup> The Commission on Human Rights in South Sudan recommended that South Sudan confirm its commitment to respecting its international human rights obligations by

<sup>184</sup> A/HRC/WGAD/2019/65; [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25676](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25676); Advocates for Human Rights/World Coalition Against the Death Penalty submission.

<sup>185</sup> A/HRC/40/67, para. 38; Amnesty International and Advocates for Human Rights/World Coalition Against the Death Penalty submissions.

<sup>186</sup> CAT/C/MDV/CO/1, para. 33.

<sup>187</sup> Advocates for Human Rights/World Coalition Against the Death Penalty submission.

<sup>188</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25140>; Justice Project Pakistan submission.

<sup>189</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23795&](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23795&) A/HRC/WGAD/2019/26; Amnesty International and Advocates for Human Rights/World Coalition Against the Death Penalty submissions.

<sup>190</sup> S/2019/936, para. 58. See also Amnesty International and Advocates for Human Rights/World Coalition Against the Death Penalty submissions.

<sup>191</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), p. 12. See also <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24633>.

<sup>192</sup> A/HRC/40/67, para. 38, referring to [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22664&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22664&LangID=E).

<sup>193</sup> HRC/40/67, paras. 39 and 72–76.

<sup>194</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24581](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24581). See also <https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24188>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24588>.

<sup>195</sup> A/74/273, para. 9.

<sup>196</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24136>.

<sup>197</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24126>.

See also [www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24184&LangID=E](http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24184&LangID=E).

<sup>198</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24140>.

<sup>199</sup> Juvenile Justice System Act, 2018.

<sup>200</sup> Justice Project Pakistan submission.

<sup>201</sup> CRC/C/BHR/CO/4-6, para. 44 (a).

<sup>202</sup> CRC/C/TON/CO/1, paras. 25–26.

<sup>203</sup> CCPR/C/SDN/CO/5, paras. 31–32.

declaring that no one who was under the age of 18 years at the time of the commission of their offence would be sentenced to death or executed.<sup>204</sup>

## B. Persons with psychosocial or intellectual disabilities

51. United Nations human rights mechanisms have stated that the death penalty should not be imposed on individuals who face specific barriers in defending themselves on an equal basis with others such as persons with psychosocial or intellectual disabilities.<sup>205</sup> 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, including lack of an effective defence due to deprivation of legal capacity and the lack of procedural accommodations.<sup>206</sup> It has recalled that, in death penalty cases, it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of the proceedings, and that information obtained as a result of torture must always be excluded from the evidence.<sup>207</sup>

52. Submissions by States highlighted provisions that limited the death penalty for persons with psychosocial or intellectual disabilities.<sup>208</sup> The United States Supreme Court has clarified that the Eighth Amendment to the Constitution prohibits the execution of those who cannot reach a rational understanding of the execution and why the State wants to execute them, notwithstanding the type of disability that affects such understanding.<sup>209</sup> In another case, the Court reiterated that the determination of intellectual disability as a bar to execution must be based on clinical criteria, not “lay stereotypes”.<sup>210</sup> At the state level, the Arkansas Supreme Court found that giving the state’s prison director sole authority to determine a prisoner’s competency to be executed violated due process.<sup>211</sup>

53. Nevertheless, persons with psychosocial or intellectual disabilities reportedly were under sentence of death, including in Iran (Islamic Republic of),<sup>212</sup> Japan, Maldives, Pakistan, the Republic of Korea, Singapore and the United States.<sup>213</sup> During the reporting period, Human Rights Council mandate holders issued urgent appeals for Pakistan<sup>214</sup> (including where the National Commission for Human Rights had issued an order directing a stay of the execution on humanitarian grounds<sup>215</sup>) and the United States<sup>216</sup> to halt the planned executions of persons with psychosocial or intellectual disabilities.

54. With regard to Saudi Arabia, the High Commissioner strongly condemned, and Human Rights Council mandate holders expressed their most serious concern at, the executions of 37 individuals, including 1 person who was a juvenile offender and a person with disabilities.<sup>217</sup> The Committee on the Rights of Persons with Disabilities urged Saudi

<sup>204</sup> A/HRC/40/69, para. 131 (d).

<sup>205</sup> General comment No. 36, paras. 41 and 49; CRPD/C/IRN/CO/1, paras. 22–23. See also Economic and Social Council resolutions 1984/50 and 1989/64; A/HRC/37/25, paras. 31–34.

<sup>206</sup> *Al Adam v. Saudi Arabia* (CRPD/C/20/D/38/2016); *Makarov v. Lithuania* (CRPD/C/18/D/30/2015). See also CRPD/C/IRN/CO/1, paras. 22–23.

<sup>207</sup> *Al Adam v. Saudi Arabia*, para. 11.4.

<sup>208</sup> Bahrain, Egypt, Iraq, Lebanon and Saudi Arabia.

<sup>209</sup> *Madison v. Alabama* (139 S.Ct.718) (2019).

<sup>210</sup> *Moore v. Texas* (586 U.S.) (2019).

<sup>211</sup> See <https://deathpenaltyinfo.org/news/arkansas-supreme-court-strikes-down-states-death-penalty-mental-competency-law>.

<sup>212</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24588>.

<sup>213</sup> See [www.amnesty.org/en/documents/act50/1847/2020/en/](http://www.amnesty.org/en/documents/act50/1847/2020/en/), pp. 12, 26 and 29. See also Harm Reduction International and Justice Project Pakistan submission.

<sup>214</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24673>;

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24263>.

<sup>215</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24068](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24068).

<sup>216</sup> See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24184>.

<sup>217</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24510&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24510&LangID=E); <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24633>.

Arabia<sup>218</sup> and Kuwait<sup>219</sup> to abolish the death penalty for persons with psychosocial or intellectual disabilities and suspend all current death sentences.

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

55. According to the Human Rights Committee, States should 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.<sup>220</sup>

56. In their submissions, Egypt indicated that birth certificates of children born in prison did not indicate where the child was born, while Iraq noted that children of executed fathers could inherit and children who were orphaned could access social assistance. Other submissions highlighted the impact on these children<sup>221</sup> in Bahrain,<sup>222</sup> Cameroon,<sup>223</sup> India<sup>224</sup> and Sri Lanka,<sup>225</sup> and the extreme psychological distress, economic hardship, and social stigmatization they faced in Malawi.<sup>226</sup> Research on Indonesia<sup>227</sup> and Pakistan<sup>228</sup> further highlighted these concerns. The Quaker United Nations Office has recommended that, to avoid the extreme suffering experienced by children when a parent is sentenced to death or executed, States should implement ways to deal with crime without resorting to capital punishment.<sup>229</sup>

57. The Committee on the Rights of the Child recommended that Bahrain provide any psychological and other support necessary to children whose parents had been sentenced to death or life imprisonment.<sup>230</sup> The Committee urged Singapore to take the best interests of the child into consideration when issuing the death penalty, and provide psychological and other support necessary to children whose parents had been sentenced to death.<sup>231</sup> The Special Rapporteur on extrajudicial, summary or arbitrary executions stated that if a detained foreign national had children in the country of detention, consular officials must assess their situation and level of care, provide assistance, assist with regular prison visits and help repatriate the children, depending on circumstances.<sup>232</sup> The African Commission's Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa urged States to mitigate the effects of the death penalty on the children of persons sentenced to death or executed, by providing them with the necessary psychological and material support and assistance.<sup>233</sup> On the World Day against the Death Penalty in 2019, dedicated to this issue, the European Union and the Council of Europe jointly highlighted the impact that the death penalty had on the children of people subjected to the death penalty. They observed that denying children and families a burial or cremation violated their human rights, notably their right to be free from cruel, inhuman

<sup>218</sup> CRPD/C/SAU/CO/1, paras. 17–18.

<sup>219</sup> CRPD/C/KWT/CO/1, paras. 20–21.

<sup>220</sup> General comment No. 36, para. 49.

<sup>221</sup> Quaker United Nations Office and Advocates for Human Rights/World Coalition Against the Death Penalty submissions.

<sup>222</sup> Reprieve/Bahrain Institute for Rights and Democracy submission.

<sup>223</sup> Cornell Centre for Death Penalty Worldwide submission.

<sup>224</sup> Project 39A submission.

<sup>225</sup> Freedoms Collective/Reprieve submission.

<sup>226</sup> Community of Sant'Egidio /Reprieve submission.

<sup>227</sup> See [www.ecpm.org/wp-content/uploads/rapporindon%C3%A9sie\\_gb.pdf](http://www.ecpm.org/wp-content/uploads/rapporindon%C3%A9sie_gb.pdf), p. 79.

<sup>228</sup> See [www.fidh.org/IMG/pdf/pakistan740angweb-2.pdf](http://www.fidh.org/IMG/pdf/pakistan740angweb-2.pdf), p. 32.

<sup>229</sup> See

[https://quono.org/sites/default/files/resources/QUNO\\_Protection%20of%20the%20Rights%20of%20CPDSE\\_An%20Expert%20Legal%20Analysis.pdf](https://quono.org/sites/default/files/resources/QUNO_Protection%20of%20the%20Rights%20of%20CPDSE_An%20Expert%20Legal%20Analysis.pdf), p. 30; see also <https://quono.org/resource/2019/7/briefing-tools-unseen-victims>.

<sup>230</sup> CRC/C/BHR/CO/4-6, para. 35.

<sup>231</sup> CRC/C/SGP/CO/4-5, para. 34.

<sup>232</sup> A/74/318, para. 101.

<sup>233</sup> See [www.achpr.org/pressrelease/detail?id=442](http://www.achpr.org/pressrelease/detail?id=442).

and degrading treatment. Children who have lost parents because of executions suffer deep and lasting grief and trauma.<sup>234</sup>

## VII. Conclusions and recommendations

58. The Secretary-General shares the view of the Human Rights Committee that the death penalty cannot be reconciled with full respect for the right to life. Abolition is desirable and necessary for the enhancement of human dignity and progressive development of human rights. The Secretary-General welcomes all measures taken towards limiting the application of, or abolishing, the death penalty, reaffirming the growing trend towards its progressive abolition and progress in the protection of the right to life. Upon abolition, States should ensure that death sentences are commuted without delay. States that continue to impose and implement death sentences should declare and implement a moratorium on executions with a view to abolition.

59. States parties to the International Covenant on Civil and Political Rights that have abolished the death penalty, including by becoming parties to the Second Optional Protocol, have an obligation not to reintroduce it. Where a long de jure or de facto moratorium on use of the death penalty has been observed, resuming its use could be contrary to the object and purpose of article 6 of the Covenant. The Secretary-General calls upon all States to fully respect their obligations under international human rights law.

60. Serious concerns still remain with regard to respect for applicable international law provisions, particularly the limitation of the death penalty to the most serious crimes, the exclusion of juvenile offenders from its scope, and due process guarantees. Retentionist States should impose the death penalty only for the “most serious crimes”, which has been consistently interpreted as crimes of extreme gravity involving intentional killing. It must never be imposed as a sanction for specific forms of non-violent conduct such as apostasy, blasphemy, adultery, and consensual same-sex relations. States should also refrain from using the death penalty for crimes not involving intentional killing, such as drug-related offences or overly broad terrorism-related crimes.

61. The Secretary-General shares the view of the Human Rights Committee that the imposition of a death sentence at the conclusion of a trial in which due process and fair trial safeguards have not been respected constitutes a violation of the right to life. Pending abolition, States must 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.

62. Even for the most serious crimes, the death penalty should never be mandatory. States that maintain the mandatory death penalty should abolish it, and a process that takes into account the personal circumstances of the offender and the particular circumstances of the offence, including its specific aggravating or attenuating elements, should be put in place for all those who were mandatorily sentenced to death.

63. International law prohibits the imposition of the death penalty on juvenile offenders. The Secretary-General urges States to review and amend legislation to ensure that legislation clearly prohibits the imposition of the death penalty on persons for a crime committed when they were under 18. States should immediately halt executions of juvenile offenders and resentence them, ensuring that they do not simply receive life sentences.

64. 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 and stigmatization and providing them with assistance for their recovery and reintegration. States should also take measures to assist children of their nationals who may face the death penalty abroad.

<sup>234</sup> See <https://rm.coe.int/2019-joint-declaration-final-003-/16809818b6>.

65. States should ensure that persons with psychosocial disabilities and persons with intellectual disabilities are not sentenced to death. Laws and sentencing guidelines must be developed or amended to prohibit the imposition of the death sentence on them, guarantee equality and non-discrimination in their access to justice and ensure procedural accommodations to them in proceedings.

66. The Secretary-General echoes the calls of the Human Rights Council for States to make available relevant, disaggregated information on the number of executions carried out, reversed or pardoned each year. They should systematically and publicly provide full and accurate data on charges and death sentences that are carried out, disaggregated by gender, age, nationality, ethnic origin and other relevant demographics. The lack of data is a serious impediment to international and national debates that may lead to abolition and that are necessary to ensure compliance with international human rights standards.

67. Retentionist States should take heed of United Nations human rights mechanisms' recommendations and those made by States during the universal periodic review, in order to ensure conformity with international norms and standards and to work towards universal abolition.

---

**Annex****Supplementary data and tables**

Table 1  
**Status of capital punishment as of May 2020: retentionist States (30)**

---

<i>State</i>
Afghanistan
Bahrain
Bangladesh
Belarus
Botswana
China
Democratic People's Republic of Korea
Egypt
India
Indonesia
Iran (Islamic Republic of)
Iraq
Japan
Jordan
Kuwait
Libya
Malaysia
Nigeria
Pakistan
Saudi Arabia
Singapore
Somalia
South Sudan
Sudan
Syrian Arab Republic
Thailand
United Arab Emirates
United States of America
Viet Nam
Yemen

---

Table 2  
**Status of capital punishment as of May 2020: fully abolitionist States (111)**

<i>State</i>	<i>Date of abolition for all crimes</i>	<i>Date of abolition for ordinary crimes</i>	<i>Date of last execution</i>
Albania	1999		
Andorra	1993		1943
Angola	1992		..
Argentina	2008	1984	1916
Armenia	2003		1991
Australia	1985	1984	1967
Austria	1968	1950	1950
Azerbaijan	1998		1993
Belgium	1996		1950
Benin	2016		1987
Bhutan	2004		1974
Bolivia (Plurinational State of)	1997	1991	1974
Bosnia and Herzegovina	2001	1997	..
Bulgaria	1998		1989
Burundi	2009		1997
Cabo Verde	1981		..
Cambodia	1989		..
Canada	1998	1976	1962
Chad	2020	2017	2015
Colombia	1910		1909
Congo	2015		1982
Cook Islands	2007		..
Costa Rica	1877		..
Côte d'Ivoire	2000		1960
Croatia	1991		1987
Cyprus	2002	1983	1962
Czechia	1990		..
Denmark	1978	1933	1950
Djibouti	1995		1977 <sup>a</sup>
Dominican Republic	1966		..
Ecuador	1906		..
Estonia	1998		1991
Fiji	2015	1979	..

<i>State</i>	<i>Date of abolition for all crimes</i>	<i>Date of abolition for ordinary crimes</i>	<i>Date of last execution</i>
Finland	1972	1949	1944
France	1981		1977
Gabon	2010		1989
Gambia	2018		2012
Georgia	1997		1994
Germany	1987		..
Greece	2004	1993	1972
Guinea	2016		2001
Guinea-Bissau	1993		1986
Haiti	1987		1972
Honduras	1956		1940
Hungary	1990		1988
Iceland	1928		1830
Ireland	1990		1954
Italy	1994	1944	1947
Kiribati	1979		1979 <sup>a</sup>
Kyrgyzstan	2006		1998
Latvia	2012	1999	1996
Liberia	2005		2000
Liechtenstein	1989		1785
Lithuania	1998		1995
Luxembourg	1979		1945
Madagascar	2014		..
Malta	2000		1943
Marshall Islands	1986		1986 <sup>a</sup>
Mauritius	1995		1987
Mexico	2005		1961
Micronesia (Federated States of)	1986		1986 <sup>a</sup>
Monaco	1962		1847
Mongolia	2017		2008
Montenegro	2002		2006 <sup>a</sup>
Mozambique	1990		1986
Namibia	1990		1988
Nauru	2016		..
Nepal	1990		1979

<i>State</i>	<i>Date of abolition for all crimes</i>	<i>Date of abolition for ordinary crimes</i>	<i>Date of last execution</i>
Netherlands	1983	1970	1952
New Zealand	1989	1961	1957
Nicaragua	1979		1930
Niue	..		..
North Macedonia	1991		..
Norway	1979	1905	1948
Palau	1994		1994 <sup>a</sup>
Panama	1917		1903 <sup>a</sup>
Paraguay	1992		1928
Philippines	2006		2000
Poland	1998		1988
Portugal	1976	1867	1849
Republic of Moldova	1995		1989
Romania	1990		1989
Russian Federation	2009		1996
Rwanda	2007		1998
Samoa	2004		1962 <sup>a</sup>
San Marino	1865	1848	1468
Sao Tome and Principe	1990		1975 <sup>a</sup>
Senegal	2004		1967
Serbia	2002		1980
Seychelles	1993		1976
Slovakia	1990		..
Slovenia	1989		1957
Solomon Islands	1978	1966	1966 <sup>a</sup>
South Africa	1995	1995	1991
Spain	1995	1978	1975
Suriname	2015		1927
Sweden	1973	1921	1910
Switzerland	1992	1942	1944
Timor-Leste	1999		1999 <sup>a</sup>
Togo	2009		1979
Turkey	2004	2002	1984
Turkmenistan	1999		1997
Tuvalu	1976		1976 <sup>a</sup>

<i>State</i>	<i>Date of abolition for all crimes</i>	<i>Date of abolition for ordinary crimes</i>	<i>Date of last execution</i>
Ukraine	1999		1997
United Kingdom of Great Britain and Northern Ireland	1998	1969 <sup>b</sup>	1964
Uruguay	1907		..
Uzbekistan	2008		2005
Vanuatu	1980		1980 <sup>a</sup>
Venezuela (Bolivarian Republic of)	1863		..
Holy See	1969		..
State of Palestine	2019		2003

*Note:* Two dots (..) indicate that the information is not available.

<sup>a</sup> Year in which independence was achieved. No executions have taken place since that time. The date of the last execution prior to independence is not available.

<sup>b</sup> Capital punishment for ordinary crimes was abolished in Northern Ireland in 1973.

**Table 3**  
**Status of capital punishment as of May 2020: abolitionist States for ordinary crimes only (8)**

<i>State</i>	<i>Date of abolition for ordinary crimes</i>	<i>Date of last execution</i>
Brazil	1979	1855
Burkina Faso	2018	1988
Chile	2001	1985
El Salvador	1983	1973
Guatemala	2017	2000
Israel	1954	1962
Kazakhstan	2007	2003
Peru	1979	1979

**Table 4**  
**Status of capital punishment as of May 2020: de facto abolitionist States (49)**

<i>State</i>	<i>Date of last execution</i>
Algeria	1993
Antigua and Barbuda	1989
Bahamas	2000
Barbados	1984
Belize	1986
Brunei Darussalam	1957
Cameroon	1997

<i>State</i>	<i>Date of last execution</i>
Central African Republic	1981
Comoros	1999
Cuba	2003
Democratic Republic of the Congo	2008
Dominica	1986
Equatorial Guinea	2014 <sup>a</sup>
Eritrea	1989
Eswatini	1983
Ethiopia	2007
Ghana	1993
Grenada	1978
Guyana	1997
Jamaica	1988
Kenya	1987
Lao People's Democratic Republic	1989
Lebanon	2004
Lesotho	1995
Malawi	1992
Maldives	1952
Mali	1980
Mauritania	1989
Morocco	1993
Myanmar	1989
Nauru	1968
Niger	1976
Oman	2001
Papua New Guinea	1950
Qatar	2003
Republic of Korea	1997
Saint Kitts and Nevis	2008
Saint Lucia	1995
Saint Vincent and the Grenadines	1995
Sierra Leone	1998
Sri Lanka	1976
Tajikistan	2003
Tonga	1982

<i>State</i>	<i>Date of last execution</i>
Trinidad and Tobago	1999
Tunisia	1981
Uganda	2004
United Republic of Tanzania	1994
Zambia	1997
Zimbabwe	2003

<sup>a</sup> An official moratorium was announced in 2014.

---