



DEATH PENALTY AND POVERTY

Factsheet for Lawyers

15th World Day Against the Death Penalty

Introduction

- **World Day Against the Death Penalty: 10 October**

On October 10, 2017, the World Coalition Against the Death Penalty and all the abolitionist organizations around the world will celebrate the 15th World Day Against the Death Penalty. This year, the World Coalition has decided to draw attention to the discriminatory aspect of the death penalty, too often used against people living in poverty. While being firmly opposed to the death penalty, abolitionists also wish to see the enforcement of measures facilitating access to justice and the enforcement of fair trials rights without any discrimination.

- **Your role as a lawyer**

The economic background of individuals sentenced to death is an important factor to take into consideration to prepare a defense at the pre-trial, trial and post-trial stages. Among individuals facing the death penalty, poverty usually creates great disparities in terms of access to justice. Access to justice, however, is one of the fundamental principles of the rule of law. States have the legal obligation to enforce it effectively.

An indigent person facing the death penalty starts with a serious disadvantage. As that person's lawyer, you need to be aware of the important responsibility you are carrying. You will need to be ingenious and astute to remedy this social and economic inequality.

The purpose of this factsheet is to identify key elements and resources you will need to establish a meaningful relationship with your client and prepare a defense. Many of these resources are practical.

- **Acknowledgement**

This guide is inspired by chapters of the *"Best Practices Manual for Lawyers Representing Individuals Facing the Death Penalty"* written by the Cornell Center on the Death Penalty Worldwide. It was prepared by the Paris Bar Association, in partnership with the World Coalition against the Death Penalty.

The factsheet targets lawyers practicing in various regions of the world, without any distinction between Civil Law and Common Law countries. Therefore, depending on the location of your current practice, some elements and resources will be more relevant than others. Please remember that those resources need to be applied in accordance with rules of ethics and rules of professional conduct applicable to your jurisdiction.

The right to legal assistanceⁱ

The right to legal assistance is essential to secure a fair trialⁱⁱ. International law establishes that every person accused of a capital crime, even if indigent, is entitled to legal representation.ⁱⁱⁱ In addition, international law provides that the accused must be given adequate time and facilities for the preparation of a defense. At a minimum, this requirement entails a right to effective legal representation.^{iv} States must also provide compensation to lawyers who are appointed to represent indigent defendants.^v Lawyers have a corresponding duty to cooperate in the provision of these services. Finally, legal authorities, including but not limited to lawyers and judges, have a duty to ensure that legal assistance is effective.^{vi}

In *Artico v. Italy*, the European Court of Human Rights held that the state's obligation to provide legal assistance is not satisfied by the mere appointment of a lawyer, "since the lawyer appointed for legal aid purposes may die, fall seriously ill, be prevented for a protracted period from acting or shirk his duties. If they are notified of the situation, the authorities must either replace him or cause him to fulfill his obligations."^{vii}

Because of financial difficulties faced by their clients, legal aid lawyers (sometimes called "public defenders") and court-appointed defense counsel may face significant challenges in carrying out their professional duty to provide quality representation. In this case, it is crucial to use this argument during the judicial process in order to, with the assistance of the bar association, bring a challenge to the adequacy of the state's implementation of its obligation to provide legal aid. If your client's trial lawyer did not fulfill his or her obligation to provide competent assistance, this is an issue that should be raised in subsequent legal proceedings as grounds for a new trial or resentencing. In the United States, courts have reversed numerous capital cases based on ineffective assistance of counsel claims.^{viii} Once local remedies are exhausted, the violation of a right to a fair trial can be used as an argument before international bodies.

How to investigate without any resources?

Depending on your judicial system, you may have to conduct an investigation. If the lack of financial resources limits your ability to investigate, you will have to be creative. Investigation frequently reveals weaknesses in the prosecution's case and enables defense counsel to present a winning defense at trial.^{ix} Investigation is also critical when you are seeking to avoid a death sentence, as you will need to gather mitigating evidence well before trial that will help you persuade the judge or jury to spare your client's life.^x

Regarding investigations, a distinction must be made between the Common law and the Civil law system. In Common law countries, the defense lawyer or defense team is responsible for thoroughly investigating both the crime and the defendant's circumstances.^{xi} Counsel has a duty to independently investigate the facts provided both by the client and by the prosecution and police. In contrast, under an inquisitorial system, used in many civil law jurisdictions, the duty of investigation is primarily given to a judicial officer. This, however, does not mean that the defense counsel is absolved of the responsibility to participate in the investigation. Your responsibility as a defense lawyer to investigate applies regardless of the civil or common law nature of your justice system.^{xii}

Your client will likely be the starting point in your investigation and may help you identify additional witnesses and sources of exculpatory or mitigating evidence.^{xiii} Therefore, you will need to develop a meaningful and trusting relationship with your client, especially if you practice in a country where you cannot interrogate witnesses. As a lawyer, you will investigate the alleged facts and scrutinize possible witnesses in relation to what they may have witnessed.



Some of the issues your investigation should address include:

- Did they actually witness the offense, or is their testimony based solely on hearsay?
- How were they able to observe what was happening, and are there reasons to question the reliability of their observations? For example, were they intoxicated or were the lighting or visibility conditions poor?
- Could they be biased against the defendant? For example, witnesses who were themselves involved in the offense may have a particularly strong motive to cast blame on others to avoid responsibility.
- Did the police or other individuals pressure them to give a particular statement?
- Did they have a motive to fabricate their testimony? For example, were they offered a lighter sentence or plea agreement in exchange for providing “helpful” information? Were there conflicts in the past between them and the accused?^{xiv}

You must also search for additional witnesses, including expert witnesses, to challenge the prosecution’s version of events and to corroborate the defendant’s account. Too often, defendants are convicted based on flawed forensic evidence or questionable “expert” testimony. You should not hesitate to challenge such expert testimony, investigate how it was collected and preserved, and ask yourself whether you need to analyze it again. You may want to retain your own expert to analyze the state expert’s methodology. In homicide cases, you must attempt to obtain the post-mortem report on the victim so that you may analyze the cause of death.^{xv}

It is your job to determine whether your client’s statement was given freely and voluntarily, and in compliance with applicable laws. As a defense lawyer, you have an obligation to investigate any possible defenses your client may have to a crime. Defenses to liability may include self-defense, insanity, diminished capacity or intoxication.^{xvi}

You must investigate prior offenses and be prepared to challenge their admission. If they are admitted, you must be able to explain your client’s conduct and rebut the prosecution’s arguments that your client’s criminal history means your client is incapable of reform. You may want to locate the victims of those prior crimes to ask about their attitudes toward your client. You should begin your investigation as soon as possible, ideally shortly after the accused is arrested. Valuable evidence may become unavailable if investigation is delayed.^{xvii}

The family may also be an important source of mitigating evidence. Your client’s family will allow you to gather information in order to humanize your client and explain your client’s state of mind to the judge or the jury. You will also have to convince them that the private family history they reveal will not shift blame to them, but rather may help to save the defendant’s life.

Poverty may constitute a mitigating circumstance. Indeed, when it commuted a death sentence to life imprisonment in *Sunil D. Gaikwad v. State of Maharashtra (2013)*, the Supreme Court of India recognized poverty as a mitigating factor. In this case, the Court held that regarding death penalty cases, it was necessary to consider the defendant’s social and economic background, such as poverty. By doing so, the Supreme Court of India has acknowledged the fact that at each stage of the judicial process, poverty constitutes a barrier to access to justice for individuals sentenced to death.

You should also interview friends, neighbors, traditional leaders, teachers, clergy, sports coaches, employers, co-workers, physicians, social workers, and therapists. These people may be able to help complete the account of a defendant’s life or may know details the family and defendant are unwilling to volunteer. They may be able to share details about past trauma or hardship or events that demonstrate that the client is a compassionate, helpful, and caring individual.^{xviii}

You must seek documents that corroborate mitigation themes such as school records. They may reveal a learning disability or a history of disruptions in the defendant's schooling.

What if I do not have enough funding to hire an expert?

It is important to consider calling expert witnesses to opine on the reliability of the prosecution's investigation techniques and forensic evidence, including the post-mortem report indicating cause of death, identification parades or "lineups," ballistics, DNA evidence, and fingerprints.^{xix} Always consider calling an expert witness to undermine the testimony of any expert who will testify for the prosecution. You may also want to find an expert witness simply to help you better understand the reports and testimony of prosecution experts, so you can question those experts more effectively.

First, consider asking for funds from the court. In many jurisdictions, lawyers file written motions asking for funding from the courts for necessary expert assistance. Remember, if you require expert assistance to effectively defend your client, it is critical that you make a written record regarding your inability to hire the expert. Your client has a right to a competent defense, and if you are deprived of necessary funding because your client is indigent, the rights to due process, a fair trial, and equal protection are at stake.

If no funds are available, consider reaching out to universities that teach psychology and forensic assessment. You may also be able to find qualified individuals to conduct the assessment on a pro bono basis. In the alternative, you can look for qualified individuals who may not be licensed, but may be able to provide you with valuable information about your client. If they encountered your client before arrest and can testify regarding your client's mental state, their testimony will still be relevant to the court's assessment of culpability as well as its sentencing determination. As a last resort, some websites have information that will not necessarily help you in court, but could give you some direction.^{xx}

If my client is a foreign national or has dual citizenship, is my client entitled to special legal procedures?

If your client is a foreign national, he or she has rights to consular notification and access under Article 36(1)(b) of the Vienna Convention on Consular Relations and customary international law. It is also possible that your client's home country has a bilateral consular treaty with the country in which your client was sentenced to death. You should investigate whether the detaining authorities notified your client of the right to have his or her consulate notified of the detention. You should also contact consular officers from your client's home country to ascertain whether they are willing to assist in your client's defense but **you must first obtain his or her consent.** Indeed, if your client is a political dissident, for instance, he or she might not be willing to contact his consulate by fear of retaliation against the client or his or her family.^{xxi}

If your client consents, your client's consulate may be able to provide a wide range of services, including financial or legal assistance. Consulates may also facilitate such critical elements of pre-trial investigation as contacts with family members and the development of a social history of a client. Consulates may also be able to serve as unique advocates for their nationals, providing diplomatic assistance and access to international tribunals.

For example, the Government of Mexico sought and obtained judgments from the Inter-American Court on Human Rights and the International Court of Justice to vindicate the rights of its nationals who had been convicted and sentenced to death without being advised of their rights to consular notification and access.^{xxii}

If the detaining authorities fail to advise your client of his or her consular rights, or if they prevent your client from communicating with the consulate, you should also petition the courts for an adequate remedy. If your client is in pretrial detention, you should consider asking the court to order the detaining authorities to allow consular access. If the authorities took your client's statement without first advising your client of consular rights, consider filing an application to exclude your client's statement on that basis. And if your client was convicted and sentenced to death without any opportunity to contact the consulate, you should ask that the conviction and sentence be vacated.^{xxiii}

Poverty and challenges in the lawyer-client relationship

People experiencing poverty are often marginalized and deprived of judicial rights. Most of the time, prisoners feel excluded and are not aware of their rights. Moreover, individuals who experience poverty often distrust persons who embody law and order. Lawyers are not an exception to this rule. They are often seen as rich people who did prestigious studies. For someone with a low self-esteem, a lawyer may seem to be a very impressive and unreachable person. Indeed, lawyers often use convoluted words that are hard to understand. The maze of the judicial process is barely understandable for someone who comes from a disadvantaged socio-economic background. Moreover, clients often have negative views of government-appointed lawyers. The appointed lawyer appears to be someone who is not well-paid and who will not prepare the case with diligence. As a lawyer, you will probably experience suspicion from your client.

A relationship of trust with your client, however, is necessary. Once your client trusts you, your client will be willing to share personal information. This information is necessary to build a strong case. You must be aware of your client's social marginalization but also the possibility that your client is experiencing solitary confinement in prison. Indeed, many governments keep defendants in capital cases isolated from other prisoners, and from their family and friends. You may be your client's only link with the outside world.

How to establish a relationship of trust with your client?

It is important to talk to your client in a language he or she can understand. Your client may have never met a lawyer. Your client is probably very intimidated by your position or even your outfit. Therefore, it might be better to introduce yourself in a simple attire to not emphasize the difference in social status.

Your client is also probably very anxious about his or her situation. Your client may be malnourished and deprived of sleep. Where possible, bring food and drink to comfort your client and break the ice. To some extent, your body language must be warm and welcoming. Your voice should be calm and compassionate. You must be available and cease any activity you might be doing. Avoid crossing your legs and arms and try to adopt an open face.



During your interview

- Before mentioning the case, it is important to ask simple questions to your client so he or she can feel comfortable around you. Then, keep in mind that open questions are more appropriate to avoid "yes or no" or short answers.
- Try to not cut your client; encourage him or her through nods and a firm eye contact. You can also try to reformulate your client's sentences by using your client's own words. It will show that you paid attention to what he or she just said and make sure you understood. It will also push your client to

go deeper or be more precise. To emphasize what your client just said, you can always reformulate with your own words.

- Remain neutral and show compassion. Do not let your own values and beliefs prevail. This will allow you to understand your client's reasoning, logic and feelings.

- **Be sure to explain the role of a lawyer**

Your client is likely to be suspicious. Because your client might not be aware of your duty of confidentiality, your client may think that his confessions will be used against him or her or be repeated. At the first meeting, you must mention the duty of confidentiality to your client and provide assurances that everything will remain confidential, unless your client agrees to disclose the information as part of your trial strategy.


You also need to explain your role as a lawyer, what you can do and what you cannot do. This step is crucial. Do not hesitate to repeat several times why you are here and why you will need your client's full cooperation.


- **Regular meetings**

Regular meetings are important to establish a meaningful and trusting relationship with your client. The more you meet, the more your client will feel comfortable around you and will share information necessary to identify and develop an effective defense to the alleged facts. This trusting relationship is also essential to establish the existence of mitigating circumstances or incapacity factors such as your client's inability to understand the situation, youth and vulnerability, mental impairment and disabilities, sexual and violent trauma experienced during childhood, and addiction issues, for example.

If you are not able to meet with your client as much as you would like, an assistant may meet with your client regularly and facilitate regular communications.

Does my client understand and speak well enough the language used by the Court?

 **The importance of ascertaining a client's native language** and level of fluency in a particular language cannot be underestimated. Do not assume that your client speaks the language of the country in which he or she is accused. Clients may appear to be fluent in a language that is not their native tongue when in fact they cannot fully comprehend nor fully express themselves in that language.^{xxiv} As your client's lawyer, you have an obligation to uphold the principle that everyone has a right to be informed of the charges against them in a language that they understand, and to be assisted by an interpreter in court.^{xxv} Indeed, to be involved, your client needs to understand the judicial process. Pursuant to International law, any individual is entitled to use an interpreter without fee or charge, if they do not understand or speak the language used by the Court.


 **More generally, the right of the accused to interpretation and translation** also includes the translation of every relevant document.^{xxvi} The use of interpreters must be free of charge. If convicted, no one should ask your client to reimburse the interpreter's fees.

There are international standards for interpreters, but certified and/or qualified interpreters may not always be available. In this case you should make a record in court describing the lack of qualifications of the interpreter and the inability of the translator to competently translate the court proceedings for your client.^{xxvii} If an official interpreter is not available, try to find someone who speaks your client's language fluently. Never use a family member or witness as an interpreter, since they have an intrinsic bias that may affect the quality and objectivity of their interpretation.

Does my client know how to read and write?

At the beginning of your relationship, check if your client can read and write.

Since illiteracy is very common in some countries, your client might not be embarrassed to admit it.

 In countries with a low illiteracy rate, however, your client may be ashamed of it and hide the inability to read. If you think it is the case, you need to act with tact. You must determine whether your client is able to understand written documents, especially in cases where your client allegedly signed written confessions.

To evaluate your client's reading and comprehension skills, ask your client to read documents and explain the information contained in the documents.

Acknowledgements:

This factsheet is inspired by the guide "Representing Individuals Facing the Death Penalty: A Best Practices Manual". It was prepared by the Paris Bar Association in partnership with the World Coalition Against the Death Penalty

Full Manual available here: <http://www.worldcoalition.org/defense-manual-lawyers-capital-cases-death-penalty-mitigating-babcock-training.html>

Factsheet available here: www.worldcoalition.org/worldday

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ⁱ See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.2, p.9-10 (2013).

ⁱⁱ «The European Court has observed with respect to Article 6(3)(c) of the European Convention that the right of an accused to be given, in certain circumstances, free legal assistance constitutes one aspect of notion of a fair trial in criminal proceedings.» *Quaranta v. Switzerland*, App. N°12744/87, ¶ 27, CEDH (May 24, 1991). See also *Artico v. Italy*, App. N°6694/74, ¶ 33, CEDH (May 13, 1980). ECtHR cases are available at

<https://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22%3A%22GRANDCHAMBER%22%22CHAMBER%22%7D> .

ⁱⁱⁱ PIDCIP Art. 14; *Taylor v. Jamaica*, ¶ 8.2, Communication N°707/1996, Doc. ONU CCPR/C/60/D/707/1996, HCDH (June 14, 1996) (« ...where a convicted person seeking constitutional review of irregularities in a criminal trial has insufficient means to meet the costs of legal assistance in order to pursue his constitutional remedy and where the interest of justice so requires, legal assistance should be provided by the State. »).

^{iv} In *Moreno Ramos v. United States*, Case 12.430, Report N°1/05, OEA/Ser.L.V/II.124, Doc. 5, CIDH (2005), the IACHR found that the United States violated equality, due process, and fair trial protections prescribed under Articles II, XVIII and XXVI of the American Declaration, including the right to competent legal representation, where Mr. Moreno Ramos' trial counsel failed to present mitigating evidence at the penalty phase of the trial and made no attempt to convince the jury to sentence him to life imprisonment. See also *Medellín, Ramírez Cárdenas & Leal García v. United States*, Case 12.644, Report No. 90/09, OEA/Ser.L.V/II.135, Doc. 37, IACHR (Aug. 7, 2009) (finding that the United States violated petitioners' rights to due process and to a fair trial under Articles XVIII and XXVI of the American Declaration by providing incompetent defense counsel in a capital case). Moreover, Article 6(3)(c) of the ECHR requires national authorities to intervene (taking positive measures) if a failure to provide effective representation is either manifest or sufficiently brought to their attention in some other way. See *Artico v. Italy*, App. No. 6694/74, ECtHR (May 13, 1980); *Kamasinski v. Austria*, (App. No. 9783/82, ECtHR Dec. 19, 1989); *Imbrioscia v. Switzerland*, App. No. 13972/88, ECtHR (Nov. 24, 1993); *Czekalla v. Portugal*, App. No. 38830/97, ECtHR (Oct. 10, 2002); *Sannino v. Italy*, App. No. 30961/03, ECtHR (Apr. 27, 2006); *Panasenko v. Portugal*, App. No. 10418/03, ECtHR (July 22, 2008). Similar provisions exist in the national laws of many countries, including the United States and Portugal. See, e.g., *Strickland v. Washington*, 466 U.S. 668 (1984); *Portugal Estatuto da Ordem dos Advogados*, Art. 93 § 2, Art. 95 §§ 1, 2, Act No. 15 (Jan. 26, 2005, last amended in 2010) (describing an lawyer's duty not to accept a case if he knows he doesn't have the required skills or availability to prepare and engage in zealous representation, and to inform the client on the progress of the case).

^v U.N. Basic Principles on the Role of Lawyers, ¶ 3. « Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources.» In *Reid v. Jamaica*, the HRC held that "in cases involving capital punishment, in particular, legal aid should enable counsel to prepare his client's defence [sic] in circumstances that can ensure justice. This does include provision for adequate remuneration for legal aid. » ¶ 13, Communication N°250/1987, Doc. ONU CCPR/C/39/D/250/1987 (1990).

^{vi} CCPR/C/39/D/250/1987 (1990) 8 *Robinson v. Jamaica*, 241, Communication N°223/1987, Doc. ONU Supp. No 40 (A/44/40) p. 41 (1989) (State party is under an obligation itself to make provision for effective representation by counsel in a case concerning a capital offence, even where provision of legal assistance would require an adjournment of the proceedings); ECOSOC Res. 1989/64 (calling on member states to afford "special protection to persons facing charges for which the death penalty is provided

by allowing time and facilities for the preparation of their defense, including the adequate assistance of counsel at every stage of the proceedings, above and beyond the protection afforded in non-capital cases"); *Kamasinski v. Austria*, App. No. 9783/82, ¶ 65, ECtHR (Dec. 19, 1989) ("Inequality of parties before the courts may easily result in a miscarriage of justice. When defense counsel fails to provide effective representation, authorities must either replace the counsel or otherwise compel the counsel to fulfill mandatory obligations.")

^{vii} *Artico v. Italy*, App. N°6694/74, ¶ 33, CEDH (May, 13 1980).

^{viii} See e.g., *Williams v. Taylor*, 529 U.S. 362 (2000); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Rompilla v. Beard*, 545 U.S. 374 (2005) ; *Porter v. McCollum*, 130 U.S. 447 (2009) ; *Sears v. Upton*, 130 U.S. 3259 (2010).

^{ix} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.22 (2013).

^x See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.22 (2013).

^{xi} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.28 (2013).

^{xii} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.28 (2013).

^{xiii} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.29 (2013).

^{xiv} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.23 (2013).

^{xv} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.23-24 (2013).

^{xvi} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.26 (2013).

^{xvii} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.28 (2013).

^{xviii} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.4, p.30 (2013).

^{xix} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.7, p.52 (2013).

^{xx} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.5, p.29 (2013).

^{xxi} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.5, p.39 (2013).

^{xxii} See. OC-16/99, Inter-Am. Ct. H.R. (Oct. 1, 1999); *Avena and Other Mexican Nationals (Mex. v. U.S.)*, 2004 I.C.J. 128 (Mar. 31). See also See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.5, p.39 (2013).

^{xxiii} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.5, p.39 (2013).

^{xxiv} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.2, p.13 (2013).

^{xxv} ICCPR Art. 14(3)(f). Article 6(3)(e) of the ECHR, Article 8(2)(a) of the ACHR, and Articles 20(4)(f) and 21(4)(f) of the respective Statutes of the International Criminal Tribunals for Rwanda and the former Yugoslavia provide for the right to free assistance of an interpreter for the accused where he does not understand or speak the language of the court.

^{xxvi} For instance, the Inter-American Human Rights Commission considers that the right of the accused to interpretation and translation is a fundamental guarantee of due process. See. Report on the Situation of Human Rights of a Segment of the Nicaraguan Population of Miskito Origin, OEA/Ser.L/V/11.62, Doc.10, rev. 3, Inter-American Court of Human Rights(1983).

^{xxvii} See. Cornell Center on the Death Penalty Worldwide, *Representing Individuals Facing the Death Penalty: A Best Practices Manual*, Chap.2, p.13 (2013).