
Advance Edited Version

Distr.: General
26 July 2022

Original: English

Human Rights Council

Fifty-first session

12 September–7 October 2022

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 reaffirms the trend towards the universal abolition of the death penalty and highlights initiatives limiting its use and implementing the safeguards guaranteeing the protection of the rights of those facing this severe penalty. A minority of States continued to use the death penalty. 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.

* The present report was submitted after the deadline in order to reflect recent developments.

I. Introduction

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

2. The report covers the period July 2020–June 2022. It is based largely on a call for inputs circulated to States, national human rights institutions, United Nations entities, international and regional intergovernmental bodies and non-governmental organizations.² Attention is also drawn to the report on a moratorium on the use of the death penalty, being submitted by the Secretary-General to the General Assembly at its seventy-seventh session, in which he outlines efforts made towards the implementation of Assembly resolution 75/183.

II. Changes in law and practice

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

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

4. Some 170 States have abolished or introduced a moratorium on the death penalty either in law or in practice, or have suspended executions for more than 10 years. In 2020, the General Assembly adopted resolution 75/183, in which it called upon States to establish a moratorium on executions, with a view to abolishing the death penalty. In their submissions for the present report, several States described their process of and support for abolition.⁴

5. During the reporting period, Kazakhstan⁵ and Sierra Leone⁶ abolished the death penalty for all crimes. Armenia⁷ and Kazakhstan⁸ deposited their instruments of ratification to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.⁹

¹ [E/2020/53](#).

² Submissions are available at <https://www.ohchr.org/en/calls-for-input/calls-input/call-inputs-secretary-generals-report-question-death-penalty-51st>.

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

⁴ Australia, Mexico, Romania and Switzerland. See also submissions of the European Union and the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina. Cuba highlighted that it was opposed to the application of the death penalty and was in favour of eliminating it when favourable conditions existed. Cuba, Singapore and the Syrian Arab Republic maintained that there was no international consensus with regard to the death penalty, and Singapore and the Syrian Arab Republic noted that every country has the sovereign right to determine its own criminal justice system, based on its circumstances and in accordance with its international obligations.

⁵ Law on amendments and additions to certain legislative acts on the abolition of the death penalty, 29 December 2021.

⁶ Law on the abolition of the death penalty, 8 October 2021; <https://statehouse.gov.sl/2021/10/08/>.

⁷ [CCPR/C/ARM/CO/3](#), para. 4.

⁸ [CERD/C/KAZ/CO/8-10](#), para. 3 (a).

⁹ See https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4&clang=_en.

Legislators in the Central African Republic¹⁰ and Papua New Guinea¹¹ passed bills to abolish the death penalty. In the United States of America, at the federal level, the Attorney General ordered a moratorium on all federal executions pending review of certain policies and procedures.¹² At the state level, 36 states have either abolished the death penalty, have a formal moratorium on its use or have not carried out an execution in a decade.¹³ The State of Virginia abolished the death penalty,¹⁴ Ohio announced reprieves of executions,¹⁵ and in Utah, bipartisan legislation to repeal the death penalty is being considered.¹⁶

6. Various domestic legal processes towards abolition of the death penalty were initiated or are ongoing. In Equatorial Guinea, the review of the Penal Code to abolish the death penalty was approved by the Senate and was awaiting final approval of the President. In Ghana, a bill proposing the abolition of the death penalty advanced in parliament.¹⁷ In Liberia, the executive reviewed legislation containing death penalty provisions and submitted a draft bill to the legislature to repeal it. In Zambia, the President pledged to abolish the death penalty and work with parliament towards that end.¹⁸

7. Domestic courts in various States have considered issues around the constitutionality of death penalty provisions or its lawfulness in different applications. In Malawi, the Supreme Court of Appeal declared the death penalty unconstitutional and contrary to the right to life.¹⁹ However, thereafter, the Supreme Court issued a “perfected” judgment reversing its original judgment.²⁰ The High Commissioner for Human Rights welcomed the statement of the President of Malawi noting that the earlier ruling abolishing the death penalty would be respected.²¹ Challenges to the constitutionality of the death penalty were also filed and were being considered by the judiciary in Guyana,²² the Republic of Korea²³ and Trinidad and Tobago.²⁴

8. During the Council’s universal periodic review process, States made numerous recommendations to retentionist States. They included recommendations to ratify or consider ratifying the Second Optional Protocol to the Covenant;²⁵ restrict the use of the death penalty to crimes that meet the “most serious crimes” threshold under international law;²⁶ eliminate

¹⁰ See <https://www.ohchr.org/en/statements/2022/06/comment-un-high-commissioner-human-rights-michelle-bachelet-adoption-law>.

¹¹ See <https://www.ohchr.org/en/2022/01/comment-un-high-commissioner-human-rights-michelle-bachelet-papua-new-guineas-repeal-death>; and https://icomdp.org/wp-content/uploads/2022/02/ICDP-2022_01_Papua-New-Guinea_Press-Release.pdf.

¹² See <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-imposes-moratorium-federal-executions-orders-review>.

¹³ See <https://reports.deathpenaltyinfo.org/year-end/YearEndReport2021.pdf>.

¹⁴ See <https://lis.virginia.gov/cgi-bin/legp604.exe?211+sum+HB2263>; and http://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/072.asp.

¹⁵ See <https://reports.deathpenaltyinfo.org/year-end/YearEndReport2020.pdf>; <https://deathpenaltyinfo.org/news-brief/kareem-jackson-receives-fourth-execution-reprieve-in-ohio-execution-date-re-set-for-2025>; and <https://deathpenaltyinfo.org/news-brief/ohio-governor-issues-three-more-reprieves-reschedules-executions-for-2025>.

¹⁶ See <https://deathpenaltyinfo.org/news/legislators-plan-new-attempt-to-repeal-utah-capital-punishment-law-as-prominent-county-attorney-announces-he-will-no-longer-seek-the-death-penalty>.

¹⁷ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

¹⁸ See <https://www.ohchr.org/en/statements/2022/05/zambias-pledge-abolish-death-penalty>.

¹⁹ See <https://malawilii.org/mw/judgment/supreme-court-appeal/2021/3>.

²⁰ See <https://www.jurist.org/news/2021/08/malawi-supreme-court-reverses-death-penalty-ban/>.

²¹ See <https://www.ohchr.org/en/2021/08/comment-un-human-rights-spokesperson-marta-hurtado-malawis-death-penalty-reinstatement>.

²² See <https://deathpenaltyproject.org/wp-content/uploads/2022/04/DPP-Annual-report-2021-Web-spread-150dpi.pdf>.

²³ See <https://www.humanrights.go.kr/site/program/board/basicboard/view?currentpage=3&menuid=002002001&pagesize=10&boardtypeid=7003&boardid=7606409>.

²⁴ See <https://deathpenaltyproject.org/wp-content/uploads/2022/04/DPP-Annual-report-2021-Web-spread-150dpi.pdf>.

²⁵ E.g., recommendations to Belarus ([A/HRC/46/5](#)), Libya ([A/HRC/46/17](#)), Oman ([A/HRC/47/11](#)), Singapore ([A/HRC/48/16](#)), Somalia ([A/HRC/48/11](#)), Thailand ([A/HRC/49/17](#)) and United States ([A/HRC/46/15](#)).

²⁶ E.g., recommendations to Thailand ([A/HRC/49/17](#)).

the mandatory character of the death penalty;²⁷ improve access to legal assistance for individuals who may face a death sentence;²⁸ ensure strict compliance in all death penalty cases with international fair trial standards;²⁹ commute all death sentences to terms of imprisonment;³⁰ conduct awareness-raising campaigns on human rights and alternatives to the death penalty;³¹ establish a moratorium;³² and consider abolition.³³

9. Liberia, Nauru, the Niger, Samoa and Sierra Leone accepted universal periodic review recommendations to fully abolish the death penalty.³⁴ Belarus partially accepted a recommendation to consider a moratorium on executions, with a view to fully abolishing the death penalty.³⁵ The United States supported in part recommendations to consider establishing a moratorium and to work towards abolishing the death penalty at the federal level.³⁶ Liberia, the Marshall Islands, Micronesia (Federated States of), Nauru, the Niger, Samoa, Sierra Leone and Thailand supported recommendations to ratify the Second Optional Protocol.³⁷ Singapore supported recommendations to review the use of the death penalty and the type of crimes to which it is applied.³⁸ The United States supported a recommendation to improve access to legal assistance for individuals who may face a death sentence.³⁹ Eswatini, the Niger, Samoa and Thailand supported recommendations to strengthen awareness-raising campaigns and public debates on the death penalty, with a view to ratifying the Second Optional Protocol.⁴⁰

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

10. Initiatives restricting the use of the death penalty were recorded in several States. Cuba adopted reforms to the Criminal Code abolishing the death penalty for four common crimes.⁴¹ Oman amended the death sentencing rules of its Criminal Procedure Law, establishing that criminal courts may only issue death sentences by consensus.⁴² Sudan amended its Criminal Act to prohibit the death penalty against children for all crimes, as well as for several crimes, including apostasy and sodomy.⁴³

²⁷ E.g., recommendations to Singapore ([A/HRC/48/16](#)).

²⁸ E.g., recommendations to United States ([A/HRC/46/15](#)).

²⁹ E.g., recommendations to Singapore ([A/HRC/48/16](#)).

³⁰ E.g., recommendations to Belarus ([A/HRC/46/5](#)) and Libya ([A/HRC/46/17](#)).

³¹ E.g., recommendations to Thailand ([A/HRC/49/17](#)).

³² E.g., recommendations to Belarus ([A/HRC/46/5](#)), Libya ([A/HRC/46/17](#)), Oman ([A/HRC/47/11](#)), Singapore ([A/HRC/48/16](#)), Somalia ([A/HRC/48/11](#)), Thailand ([A/HRC/49/17](#)) and United States ([A/HRC/46/15](#)).

³³ *Ibid.*

³⁴ [A/HRC/46/6/Add.1](#); [A/HRC/47/17/Add.1](#); [A/HRC/48/5/Add.1](#); [A/HRC/48/17/Add.1](#); and https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2F2022-04%2FUPR39_Samoa_Thematic_List_of_Recommendations.docx&wdOrigin=BROWSELINK.

³⁵ [A/HRC/46/5/Add.1](#).

³⁶ [A/HRC/46/15/Add.1](#).

³⁷ [A/HRC/46/6/Add.1](#); [A/HRC/46/14/Add.1](#); [A/HRC/47/4/Add.1](#); [A/HRC/47/17/Add.1](#);

[A/HRC/48/5/Add.1](#); [A/HRC/48/17/Add.1](#); [A/HRC/49/17/Add.1](#); and

https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2F2022-04%2FUPR39_Samoa_Thematic_List_of_Recommendations.docx&wdOrigin=BROWSELINK.

³⁸ [A/HRC/48/16/Add.1](#).

³⁹ [A/HRC/46/15/Add.1](#).

⁴⁰ [A/HRC/49/14/Add.1](#); [A/HRC/48/5/Add.1](#); [A/HRC/49/17/Add.1](#); and

https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2F2022-04%2FUPR39_Samoa_Thematic_List_of_Recommendations.docx&wdOrigin=BROWSELINK.

⁴¹ See https://files.sld.cu/prevemi/files/2013/03/ley_87_modifica_codigo_penal_1999.pdf.

⁴² Royal Decree No. 120/2020 of 13 October 2020 on the amendment of death sentencing rules in the Criminal Procedure Law.

⁴³ The Miscellaneous Amendments Act of July 2020. Amendment to arts. 27 and 148 of the Criminal Act.

11. Various initiatives prohibiting the death penalty against persons with psychosocial or intellectual disabilities were also recorded. In Pakistan, the Supreme Court prohibited the execution of prisoners with certain psychosocial or intellectual disabilities.⁴⁴ In the United States, the States of Ohio⁴⁵ and Kentucky⁴⁶ adopted bills prohibiting the death penalty for persons with serious psychosocial or intellectual disabilities.

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

12. As at 15 June 2022, 90 States had deposited their instruments of ratification or accession to the Second Optional Protocol to the Covenant, the key international treaty prohibiting the use of the death penalty.⁴⁷

13. Human rights treaty bodies encouraged States to consider ratifying or acceding to the Second Optional Protocol, including with regard to Cambodia,⁴⁸ Cameroon,⁴⁹ Iraq,⁵⁰ Kenya,⁵¹ Nigeria,⁵² Qatar⁵³ and Senegal.⁵⁴ Treaty bodies also invited States, including Cuba,⁵⁵ Kenya,⁵⁶ Nigeria⁵⁷ and Singapore,⁵⁸ to consider declaring a moratorium on the use of the death penalty with a view to its abolition.

14. The African Commission on Human and Peoples' Rights also recommended that States consider observing a moratorium on the application of the death penalty; suspend the execution of prisoners on death row and commute their sentences; and accelerate measures to guarantee the abolition of the death penalty in law and practice and to ratify the Second Optional Protocol.⁵⁹

15. During the reporting period, the Human Rights Committee condemned Belarus for the execution of a person whose petition was still being examined by the Committee and found Belarus' failure to comply with its request for interim measures to be a violation of the first Optional Protocol to the Covenant.⁶⁰ The Inter-American Commission on Human Rights also condemned an execution carried out in the United States, despite the Commission having granted precautionary measures in the case.⁶¹ Special procedure mandate holders of the Human Rights Council expressed concerns regarding the extradition by Serbia of an individual to Bahrain, where the individual could face the death penalty, despite interim measures instructed by the European Court of Human Rights.⁶²

⁴⁴ See <https://perma.cc/JYL9-2573>.

⁴⁵ Ohio House Bill 136.

⁴⁶ Kentucky House Bill 269.

⁴⁷ See https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4&clang=_en.

⁴⁸ [CRC/C/KHM/CO/4-6](#).

⁴⁹ [CERD/C/CMR/CO/22-23](#), para. 36.

⁵⁰ [CCPR/C/IRQ/CO/6](#), para. 19.

⁵¹ [CCPR/C/KEN/CO/4](#), paras. 22–23.

⁵² [CAT/C/NGA/COAR/1](#), para. 28 (b).

⁵³ [CCPR/C/QAT/CO/1](#), para. 21.

⁵⁴ [CEDAW/C/SEN/CO/8](#), para. 48.

⁵⁵ [CAT/C/CUB/CO/3](#).

⁵⁶ [CAT/C/KEN/CO/3](#).

⁵⁷ [CAT/C/NGA/COAR/1](#).

⁵⁸ [CERD/C/SGP/CO/1](#), para. 22 (b).

⁵⁹ See <https://www.achpr.org/public/Document/file/English/ENG-Intersession%20Activity%20Report-WGDP.pdf>.

⁶⁰ See <https://www.ohchr.org/en/press-releases/2022/03/belarus-un-human-rights-committee-condemns-execution>.

⁶¹ See https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2022/115.asp.

⁶² See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27096>;

and

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27094>.

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

16. According to the Human Rights Committee, States parties to the Covenant that have abolished the death penalty, whether 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. Further, States parties to the Covenant may not transform into a capital offence any offence that, upon ratification of the Covenant or at any time thereafter, did not entail the death penalty.⁶³ The Committee has stated that it is contrary to the object and purpose of article 6 of the Covenant for States parties to take steps to increase de facto the rate of use of and extent to which they resort to the death penalty.⁶⁴

17. Several laws providing for the death penalty or extending its use were adopted or introduced. In Belarus, amendments were introduced to the Criminal Code to extend the application of the death penalty for “preparing and attempting” terrorism-related crimes, including activities that would not fall under the definition of “most serious crimes” under article 6 (2) of the Covenant.⁶⁵ In Guatemala, a law aimed at reforming the Penal Code and the Code of Criminal Procedure was presented in Congress to reinstate the death penalty for murder, parricide, assassination and kidnapping.⁶⁶ In India and Nigeria, various states extended the scope of the death penalty, including for sexual offences⁶⁷ and for kidnapping and cattle rustling.⁶⁸ In the Sudan, amendments to the Criminal Code expanded the application of the death penalty to include people over the age of 70 in relation to crimes committed against the State and misuse of public funds.⁶⁹

18. Special procedure mandate holders expressed concern at the resumption of federal execution in the United States between July 2020 and January 2021 and observed that it was incompatible with the country’s international commitments.⁷⁰ In its reply to recommendations of the universal periodic review in March 2021, the United States indicated that the President supported legislatively ending the death penalty at the federal level and incentivizing states to follow the federal Government’s example.⁷¹

19. Some of the highest senior officials in Guatemala,⁷² the Russian Federation⁷³ and Tunisia⁷⁴ expressed support for the reintroduction of the death penalty. In Myanmar, the

⁶³ General comment No. 36, para. 34.

⁶⁴ *Ibid.*, para. 50.

⁶⁵ Law No. 275-Z of 9 July 1999; and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27295>.

⁶⁶ Law No. 5714 of 27 January 2021.

⁶⁷ Punjab Excise (Amendment) Act, 2021 (No. 7 of 2021), sect. 61A; Madhya Pradesh Excise (Amendment) Act, 2021 (No. 28 of 2021), sect. 49A; and Shakti Criminal Laws (Maharashtra Amendment) Bill, 2020 (No. LI of 2021).

⁶⁸ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>; National Human Rights Commission of Nigeria submission.

⁶⁹ The Miscellaneous Amendments Act of July 2020. Amendment to article 27 of the Criminal Act.

⁷⁰ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25703>; and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26045>.

⁷¹ [A/HRC/46/15/Add.1](#), para. 10.

⁷² See https://twitter.com/GuatemalaGob/status/1359962852933718016?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1359962852933718016%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.telesurtv.net%2Fnews%2Fpresidente-guatemala-sugiere-pais-retome-pena-muerte-20210212-0007.html.

⁷³ See <https://www.reuters.com/world/europe/russian-negotiator-says-ukraines-azov-fighters-dont-deserve-live-2022-05-17/>; and <https://www.dw.com/en/prisoners-of-war-from-azov-do-the-fighters-face-the-death-penalty-in-russia/a-61883690>.

⁷⁴ See <https://www.lecourrierdelatlas.com/le-plaidoyer-du-president-saied-en-faveur-de-la-peine-de-mort/>.

military announced the decision to enforce death sentences after a de facto moratorium of over 30 years.⁷⁵

20. Measures adopted in the context of the coronavirus disease (COVID-19) pandemic had an impact on the imposition and application of the death penalty. Reportedly there was a decrease in the number of death sentences imposed and carried out in 2020, including in Iran (Islamic Republic of), Saudi Arabia and the United States, due partly to measures adopted to address the pandemic.⁷⁶

21. As pandemic-related restrictions eased in 2021 and 2022, executions resumed or increased in several countries. Belarus, Japan and the United Arab Emirates resumed executions in 2021.⁷⁷ Singapore resumed executions for drug-related offences in March 2022, after a hiatus of over two years.⁷⁸ In the United States, the State of Arizona resumed executions in May 2022 after an eight-year hiatus.⁷⁹ Reportedly, executions increased significantly in the Islamic Republic of Iran,⁸⁰ due in part to an increase in drug-related executions,⁸¹ and in Saudi Arabia,⁸² Somalia, South Sudan and Yemen.⁸³ In 2021, significant increases in the imposition of the death penalty were recorded in Bangladesh, India, Mauritania and Pakistan, as well as in the Democratic Republic of the Congo, Egypt, Iraq, Myanmar, Viet Nam and Yemen.⁸⁴

22. In 2020, executions reportedly increased considerably in Egypt, which together with Iran (Islamic Republic of), Iraq and Saudi Arabia reportedly accounted for 88 per cent of all known executions that year.⁸⁵ In 2020, executions resumed in India, Oman, Qatar and Taiwan.⁸⁶

III. Transparency and the use of the death penalty

23. In its resolution 48/9, the Council called upon States that had not yet abolished the death penalty to ensure transparency in the imposition and application of this punishment; to be transparent with respect to their execution methods, including through legislation, protocols or practices; and to make available systematically and publicly, full, accurate and relevant information, disaggregated by gender, age, nationality, race and other applicable criteria, with regard to their use of the death penalty. The resolution indicated that such information could contribute to informed and transparent national and international debates, bearing in mind that access to reliable information on the imposition and application of the death penalty enables stakeholders to understand and assess the scope of these practices.

24. It remains difficult to obtain up-to-date and accurate global figures on the application of the death penalty. For example, China and Viet Nam continue to classify data on the use

⁷⁵ See <https://www.ohchr.org/en/statements/2022/06/50th-session-human-rights-council-oral-update-myanmar>; <https://www.ohchr.org/en/press-releases/2022/06/myanmar-un-experts-sound-alarm-over-juntas-decision-enforce-death-sentences>; and <https://www.un.org/sg/en/content/highlight/2022-06-03.html>.

⁷⁶ See <https://www.amnesty.org/en/wp-content/uploads/2021/05/ACT5037602021ENGLISH.pdf>; <https://reports.deathpenaltyinfo.org/year-end/YearEndReport2020.pdf>; and <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>.

⁷⁷ See <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

⁷⁸ See <https://www.ohchr.org/en/statements/2022/04/singapore-urged-halt-two-imminent-executions>; https://www.eeas.europa.eu/eeas/singapore-statement-spokesperson-execution-abdul-kahar-bin-othman_en; and <https://www.ohchr.org/en/press-releases/2022/05/singapore-un-human-rights-experts-urge-immediate-death-penalty-moratorium>.

⁷⁹ See <https://deathpenaltyinfo.org/news/witnesses-report-problems-inserting-iv-in-arizonas-first-execution-in-eight-years>.

⁸⁰ See <https://www.iranhr.net/en/reports/27/>.

⁸¹ See <https://www.hri.global/death-penalty-2021>. See also [A/HRC/49/75](#), para. 5.

⁸² See <https://www.ohchr.org/en/statements/2022/03/comment-un-high-commissioner-human-rights-michelle-bachelet-execution-81-people>.

⁸³ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

⁸⁴ See <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

⁸⁵ See <https://www.amnesty.org/en/wp-content/uploads/2021/05/ACT5037602021ENGLISH.pdf>.

⁸⁶ *Ibid.*

of the death penalty as a State secret,⁸⁷ and little to no information is available on countries such as Belarus, the Democratic People's Republic of Korea and Lao People's Democratic Republic.⁸⁸ In China, judicial transparency reportedly declined after the Supreme People's Court removed criminal cases from its public website, including all its review decisions on death penalty cases.⁸⁹ In the context of an official visit to China, the High Commissioner stressed the importance of issuing data on the death penalty.⁹⁰

25. Treaty bodies regretted the lack of official statistics with regard to the number of persons on death row in Nigeria,⁹¹ and the lack of comprehensive figures and information on legal safeguards with regard to the imposition and application of the death penalty in Iraq.⁹² They recommended that Qatar carry out appropriate awareness-raising measures to mobilize public opinion in support of abolition of the death penalty,⁹³ and that Botswana carry out public campaigns to promote the abolition of the death penalty.⁹⁴

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

26. In its resolution 48/9, the Council reaffirmed the safeguards guaranteeing the protection of persons facing the death penalty, which are the internationally recognized minimum standards to be observed by States that continue to impose capital punishment.⁹⁵ In its general comment No. 36, the Human Rights Committee elaborated upon the term "most serious crimes", mandatory death sentences, fair trial guarantees, right to seek pardon or commutation, methods of execution, and protection of juveniles, persons with disabilities and pregnant women.

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

27. In accordance with article 6 (2) of the Covenant, States should only impose the death penalty for the "most serious crimes". In its general comment No. 36, the Human Rights Committee indicated that the term "most serious crimes" must be read restrictively and appertain only to crimes of extreme gravity involving intentional killing. The Committee stated that crimes not resulting directly and intentionally in death can never serve as the basis, within the framework of article 6, for the imposition of the death penalty.⁹⁶

28. During the reporting period, the death sentence was reportedly provided for in law for offences that did not meet the above threshold, such as drug-related offences,⁹⁷ economic crimes such as corruption,⁹⁸ consensual sexual relations outside marriage,⁹⁹ same-sex

⁸⁷ See <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

⁸⁸ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

⁸⁹ See <https://www.amnesty.org/en/documents/act50/5418/2022/en/> (p. 28); and submission from The Rights Practice.

⁹⁰ See <https://www.ohchr.org/en/statements/2022/05/statement-un-high-commissioner-human-rights-michelle-bachelet-after-official>.

⁹¹ [CAT/C/NGA/COAR/1](#).

⁹² [CAT/C/IRQ/CO/2](#).

⁹³ [CCPR/C/QAT/CO/1](#).

⁹⁴ [CCPR/C/BWA/CO/2](#).

⁹⁵ See Economic and Social Council resolution 1984/50, annex; and [E/2015/49](#), para. 60.

⁹⁶ General comment No. 36, para. 35.

⁹⁷ E.g., China, Democratic People's Republic of Korea, Indonesia, Iran (Islamic Republic of), Malaysia, Singapore, Sri Lanka, Thailand and Viet Nam:

https://www.hri.global/files/2022/03/09/HRI_Global_Overview_2021_Final.pdf;

<https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>; and

https://www.incb.org/documents/Publications/AnnualReports/AR2021/Annual_Report/E_INCB_2021_1_eng.pdf.

⁹⁸ E.g., China (<https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>).

⁹⁹ E.g., Maldives ([CEDAW/C/MDV/CO/6](#)) and Yemen ([CEDAW/C/YEM/CO/7-8](#), para. 17).

relations,¹⁰⁰ rape,¹⁰¹ kidnapping,¹⁰² blasphemy,¹⁰³ espionage,¹⁰⁴ treason¹⁰⁵ or broad categories of crimes against the security of the State.¹⁰⁶

29. In its study on arbitrary detention relating to drug policies, the Working Group on Arbitrary Detention recalled that imposing the death penalty for drug-related offences is incompatible with international standards on the use of the death penalty. It noted, however, that thousands of people were reportedly on death row for drug-related offences, and that death sentences for drug-related offences frequently constituted a high proportion of the total death sentences handed down.¹⁰⁷ The International Narcotics Control Board called upon all States that retain the death penalty for drug-related offences to consider abolishing it for such offences and commuting death sentences that have already been handed down.¹⁰⁸

30. After a decrease in 2020, the imposition and application of the death penalty for drug-related offences increased considerably in 2021.¹⁰⁹ Reportedly, 35 countries prescribed the death penalty as a punishment for drug offences,¹¹⁰ and in 12 countries the death penalty was mandatory for certain drug offences.¹¹¹ Persons from vulnerable and marginalized groups, persons belonging to minorities, foreign nationals and women are overrepresented among people facing the death penalty for drug offences.¹¹² Despite amendments to the Law on combating illicit drugs, a significant increase in drug-related executions was reported in the Islamic Republic of Iran.¹¹³

31. Several States continued imposing and applying the death penalty for terrorism-related crimes. The Committee against Torture expressed concern at reports suggesting that death sentences are frequently handed down in Iraq under the counter-terrorism legislation and often accompanied by the lack of due process and fair trial guarantees.¹¹⁴ Special procedures of the Human Rights Council expressed concerns about the use of counter-terrorism laws in Egypt,¹¹⁵ Iraq¹¹⁶ and Saudi Arabia, including against foreign nationals and persons belonging to minorities,¹¹⁷ to sentence individuals to death after judicial proceedings that reportedly did not meet fair trial and due process guarantees, and allegations of arbitrary

¹⁰⁰ See <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf> (p. 26).

¹⁰¹ E.g., Bangladesh (<https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>), Egypt, India (e.g., State of Maharashtra), Nigeria (e.g. State of Jigawa, <https://moj.jg.gov.ng/violence-against-persons-prohibition-law-2021/>), Pakistan and the Sudan (<https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>).

¹⁰² E.g., Malaysia (<https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>).

¹⁰³ E.g., Nigeria (<https://www.ohchr.org/en/press-releases/2020/09/un-rights-experts-urge-nigeria-overturn-death-sentence-singer-who-shared>) and Pakistan (<https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>).

¹⁰⁴ E.g., Iran (Islamic Republic of) (<https://www.ohchr.org/en/press-releases/2021/03/iran-ahmadreza-djalali-nearing-death-solitary-confinement-torture-must-end>) and Yemen (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26361>).

¹⁰⁵ E.g., Botswana ([CCPR/C/BWA/CO/2](https://www.ohchr.org/en/press-releases/2021/03/iran-ahmadreza-djalali-nearing-death-solitary-confinement-torture-must-end)).

¹⁰⁶ E.g., Cuba ([CAT/C/CUB/CO/3](https://www.ohchr.org/en/press-releases/2021/03/iran-ahmadreza-djalali-nearing-death-solitary-confinement-torture-must-end)), Iran (Islamic Republic of), Saudi Arabia and Yemen (<https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>).

¹⁰⁷ [A/HRC/47/40](https://www.ohchr.org/en/press-releases/2021/03/iran-ahmadreza-djalali-nearing-death-solitary-confinement-torture-must-end), paras. 41–43.

¹⁰⁸ See https://www.incb.org/documents/Publications/AnnualReports/AR2021/Annual_Report/E_INCB_2021_1_eng.pdf.

¹⁰⁹ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

¹¹⁰ See https://www.hri.global/files/2022/03/09/HRI_Global_Overview_2021_Final.pdf.

¹¹¹ Harm Reduction International submission.

¹¹² See https://www.hri.global/files/2022/03/09/HRI_Global_Overview_2021_Final.pdf. See also <http://fileserv.idpc.net/library/No-One-Believed-Me.pdf>.

¹¹³ See https://www.hri.global/files/2022/03/09/HRI_Global_Overview_2021_Final.pdf.

¹¹⁴ [CAT/C/IRQ/CO/2](https://www.hri.global/files/2022/03/09/HRI_Global_Overview_2021_Final.pdf).

¹¹⁵ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26600>.

¹¹⁶ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25494>.

¹¹⁷ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27156>.

arrest, torture and ill-treatment,¹¹⁸ and enforced disappearances.¹¹⁹ The High Commissioner for Human Rights condemned a mass execution in Saudi Arabia on terrorism-related charges, including of persons belonging to minorities who had taken part in anti-government protests.¹²⁰ The Office of the United Nations High Commissioner for Human Rights also referred to “disturbing reports” of executions in Egypt based on terrorism convictions that reportedly did not meet fair trial standards.¹²¹

32. The Human Rights Committee has reaffirmed that under no circumstances can the death penalty ever be applied as a sanction against conduct the very criminalization of which violates the International Covenant on Civil and Political Rights, including adultery, homosexuality, apostasy, establishing political opposition groups, or offending a head of State.¹²² The Committee against Torture was distressed by reports that capital punishment could be imposed in 12 Nigerian States that operate under sharia for offences such as adultery, apostasy, witchcraft or sexual relations between same-sex persons,¹²³ and the Committee on the Elimination of Discrimination against Women noted with concern that consensual sexual relations outside marriage were still punished, in some instances, with the death penalty in Maldives, a situation that disproportionately affects women and girls, and recommended its decriminalization.¹²⁴

B. Prohibition of the mandatory use of the death penalty

33. According to the Human Rights Committee, in all cases involving the application of the death penalty, the personal circumstances of the offender and the particular circumstances of the offence must be considered by the sentencing court. Hence the Committee considers that mandatory death sentences that leave domestic courts with no discretion on whether or not to designate the offence as a crime entailing the death penalty, and on whether or not to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature.¹²⁵ Such mandatory death sentences would also be incompatible with the limitation of capital punishment to the “most serious crimes”.¹²⁶

34. During the reporting period, mandatory death sentences reportedly continued to be imposed or provided for in law in a number of States, including Cameroon, Ghana, Iran (Islamic Republic of),¹²⁷ Kenya,¹²⁸ Malaysia,¹²⁹ Nigeria,¹³⁰ Pakistan,¹³¹ Singapore,¹³² Trinidad and Tobago and Zambia.¹³³ The Human Rights Committee expressed concern that the death penalty also remained mandatory for certain crimes in Botswana and Iraq, and recommended that, if the death penalty is maintained, those States should take all necessary measures to ensure that it is never mandatory.¹³⁴ With regard to Singapore, the Committee on

¹¹⁸ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26411>;

and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27156>.

¹¹⁹ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26535>.

¹²⁰ See <https://www.ohchr.org/en/statements/2022/03/comment-un-high-commissioner-human-rights-michelle-bachelet-execution-81-people>.

¹²¹ See <https://www.ohchr.org/en/press-briefing-notes/2022/03/press-briefing-notes-egypt-executions>.

¹²² General comment No. 36, para. 36.

¹²³ [CAT/C/NGA/COAR/1](#).

¹²⁴ [CEDAW/C/MDV/CO/6](#).

¹²⁵ General comment No. 36, para. 37; and [A/HRC/39/19](#), para. 24.

¹²⁶ [E/2015/49](#), para. 63.

¹²⁷ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

¹²⁸ Reprieve submission.

¹²⁹ See <https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/discretion-in-law-but-not-in-practice-malysias-dangerous-drugs-act>.

¹³⁰ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

¹³¹ International Commission against the Death Penalty and Justice Project Pakistan submissions.

¹³² Submission of Singapore; and [CERD/C/SGP/CO/1](#).

¹³³ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

¹³⁴ [CCPR/C/BWA/CO/2](#); and [CCPR/C/IRQ/CO/6](#).

the Elimination of Racial Discrimination expressed concern that persons belonging to ethnic minorities, particularly Malays, were overrepresented among persons sentenced to the mandatory death penalty and regretted that the State did not make available detailed statistics disaggregated by ethnicity.¹³⁵

35. Some initiatives were undertaken to remove the mandatory death penalty. Uganda removed mandatory capital offences from various criminal law statutes, enabling greater discretion of the courts in sentencing.¹³⁶ Treaty bodies welcomed steps taken by Kenya to implement the judgment in a 2017 Supreme Court case that held the mandatory use of the death penalty for murder to be unconstitutional, and recommended that Kenya expedite the process of amending its national legal framework accordingly.¹³⁷ Malaysia announced that it would abolish the mandatory death penalty for 11 offences, including drug-related offences, and would review the use of the death penalty in 22 other offences.¹³⁸

36. In two new rulings, the African Court on Human and Peoples' Rights found that the mandatory death penalty in the United Republic of Tanzania violates the right to life and gives the judge no discretion in sentencing, and ordered the removal of the mandatory death penalty within one year.¹³⁹

C. Fair trial guarantees

37. According to the Human Rights Committee, violations of fair trial guarantees provided for in article 14 of the Covenant resulting in the imposition of the death penalty would render the sentence arbitrary in nature, and would constitute a violation of the right to life.¹⁴⁰ Such violations include the use of forced confessions; lack of effective representation; excessive and unjustified delays; general lack of fairness of the criminal process; or lack of independence or impartiality of the trial or appeal court.¹⁴¹ Other serious procedural flaws, such as a failure to promptly inform detained foreign nationals of their right to consular notification and failure to afford individuals about to be deported to a country in which their lives are claimed to be at real risk the opportunity to avail themselves of available appeal procedures, may also render the imposition of the death penalty contrary to article 6 (1) of the Covenant.¹⁴²

38. Some States provided information regarding legal guarantees and safeguards in their jurisdictions,¹⁴³ as well as consular and legal assistance provided to nationals facing death sentences in foreign jurisdictions.¹⁴⁴ During the reporting period, in the United States, the Supreme Court of North Carolina allowed defendants to seek relief based on racial bias in their trials, and the legislature of California adopted legislation to strengthen the prohibition of discriminatory jury selection.¹⁴⁵ China adopted a commitment in its human rights action

¹³⁵ CERD/C/SGP/CO/1, para. 21.

¹³⁶ The Law Revision (Penalties in Criminal Matters) Miscellaneous (Amendment) Act (2019), 5 November 2021.

¹³⁷ CCPR/C/KEN/CO/4; CAT/C/KEN/CO/3. See also Reprieve submission.

¹³⁸ See <https://www.ohchr.org/en/press-releases/2022/06/malaysia-un-experts-welcome-announcement-abolish-mandatory-death-penalty>.

¹³⁹ See <https://www.african-court.org/cpmt/storage/app/uploads/public/615/bf4/f09/615bf4f09e55a745995400.pdf>; and <https://www.african-court.org/cpmt/storage/app/uploads/public/61e/163/77e/61e16377e31f0332569496.pdf>.

¹⁴⁰ General comment No. 36, para. 41; and General comment No. 32 (2007), para. 59.

¹⁴¹ General comment No. 36, para. 41.

¹⁴² *Ibid.*, para. 42.

¹⁴³ Iraq, Kenya, Saudi Arabia, Singapore and the Syrian Arab Republic. See also submission of Oman Human Rights Commission.

¹⁴⁴ Mexico.

¹⁴⁵ See <https://reports.deathpenaltyinfo.org/year-end/YearEndReport2020.pdf>.

plan to enforce more rigorous procedures for reviewing capital sentences and implement a more stringent mechanism for reporting and reviewing death penalty cases.¹⁴⁶

39. Some death sentences were reportedly imposed after arbitrary arrests, lack of due process and fair trial guarantees, and torture allegations, including in the context of implementation of counter-terrorism laws in Bahrain, Iraq, Saudi Arabia and Yemen.¹⁴⁷ Treaty bodies regretted the lack of information on legal safeguards with regard to the imposition and application of the death penalty in Iraq.¹⁴⁸ They also expressed alarm that women and children continue to be sentenced to death in South Sudan, including by customary courts and in the absence of fair trial guarantees.¹⁴⁹ Concerns were also expressed about the imposition of the death penalty in Cameroon on members of ethnic, ethnolinguistic and ethno-religious groups before military courts and without the provision of adequate interpretation.¹⁵⁰ Special procedures sounded alarms over the imposition of death sentences against civilians by military tribunals in Myanmar in violation of fair trial and due process guarantees.¹⁵¹

40. On the occasion of the World Day against the Death Penalty, on 10 October 2020, the European Union and the Council of Europe highlighted that the violation of the right to effective legal representation disproportionately affects the most vulnerable, and stressed that justice systems must provide resources to prepare an effective defence.¹⁵² During the reporting period, special procedures expressed concern about lack of effective legal assistance in death penalty cases in Bahrain, the United States and Yemen.¹⁵³ During the COVID-19 pandemic, many persons on death row have reportedly been unable to access in-person legal representation, and some defence lawyers reported that they were unable to effectively carry out their investigative work.¹⁵⁴

41. Submissions highlighted fair trial concerns in Belarus,¹⁵⁵ China,¹⁵⁶ Egypt,¹⁵⁷ Iran (Islamic Republic of),¹⁵⁸ Pakistan,¹⁵⁹ Saudi Arabia¹⁶⁰ and Singapore.¹⁶¹ Obstacles to the right to defence, including punitive costs to file challenges to the imposition of the death penalty, were also reported in various countries, as well as concerns that serve to discourage lawyers

¹⁴⁶ See <https://www.ohchr.org/en/statements/2022/05/statement-un-high-commissioner-human-rights-michelle-bachelet-after-official>; and https://www.mfa.gov.cn/ce/cegn/eng/zxhd_1/t1905964.htm. See also The Rights Practice submission.

¹⁴⁷ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27113>;
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26985>;
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25543>;
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25494>;
 and
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25475>.

¹⁴⁸ [CAT/C/IRQ/CO/2](#).

¹⁴⁹ [CEDAW/C/SSD/CO/1](#).

¹⁵⁰ [CERD/C/CMR/CO/22-23](#).

¹⁵¹ See <https://www.ohchr.org/en/press-releases/2022/06/myanmar-un-experts-sound-alarm-over-juntas-decision-enforce-death-sentences>.

¹⁵² See <https://www.coe.int/en/web/portal/-/world-day-against-the-death-penalty-10-october-2020-joint-declaration-by-eu-high-representative-and-council-of-europe-secretary-general>.

¹⁵³ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27094>;
<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36897>;
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25543>;
 and
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26045>.

¹⁵⁴ See <https://www.amnesty.org/en/latest/news/2021/04/death-penalty-2020-despite-covid-19-some-countries-ruthlessly-pursued-death-sentences-and-executions/>.

¹⁵⁵ International Commission against the Death Penalty submission.

¹⁵⁶ Submission of The Rights Practice.

¹⁵⁷ International Commission against the Death Penalty submission.

¹⁵⁸ International Bar Association's Human Rights Institute submission.

¹⁵⁹ Justice Project Pakistan submission.

¹⁶⁰ International Bar Association's Human Rights Institute submission.

¹⁶¹ World Coalition against the Death Penalty submission.

from taking up death penalty cases and make it more difficult to find legal representation for people sentenced to death.¹⁶²

D. Right to seek pardon or commutation

42. Article 6 (4) of the Covenant requires States parties to allow anyone sentenced to death to seek pardon or commutation of the sentence, which may be granted in all cases. According to the Human Rights Committee, States parties are required to ensure that amnesties, pardons and commutations can be granted in appropriate circumstances, and 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. The Committee also considered that the conditions for attaining relief should not be ineffective, unnecessarily burdensome, discriminatory in nature or applied in an arbitrary manner.¹⁶³ Further, the Committee considered that it is contrary to the object and purpose of article 6 for States parties to reduce the number of pardons and commutations they grant.¹⁶⁴

43. Commutations and pardons were granted during the reporting period, including as part of COVID-19 preventative measures in prisons,¹⁶⁵ including in Bangladesh, Belarus, Botswana, the Democratic Republic of the Congo, Guyana, India, Indonesia, Iran (Islamic Republic of), Malaysia, Myanmar, Pakistan, Saudi Arabia, Sierra Leone, South Sudan, the Syrian Arab Republic, Taiwan, Thailand, Trinidad and Tobago, the United Arab Emirates, the United States, Zambia and Zimbabwe.¹⁶⁶ Treaty bodies recommended that Botswana increase its efforts towards commuting death sentences,¹⁶⁷ and urged Nigeria to provide details on sentences commuted and pardons granted.¹⁶⁸ According to information received, in India, the Supreme Court did not confirm death sentences in 2021; it commuted death sentences or acquitted death row prisoners.¹⁶⁹ In Pakistan, the Criminal Law and Justice Reforms Bill 2022 revised the procedure for the review of mercy petitions, giving prisoners a meaningful opportunity to seek clemency.¹⁷⁰

44. Nevertheless, some individuals were denied their rights to seek pardon or commutation. The Human Rights Committee expressed concern that certain crimes punishable by death were explicitly excluded from being granted a pardon in Iraq.¹⁷¹ The Committee was also concerned that no applications for mercy brought before the Advisory Committee on the Prerogative of Mercy in Botswana had been successful, and regretted the lack of information on the criteria applied for determining applications.¹⁷² The Committee against Torture urged Nigeria to commute death sentences to prison sentences by implementing the Nigerian Correctional Services Act.¹⁷³ In Pakistan, despite reforms of the mercy petitions procedure in 2019, deficiencies were reported in its implementation.¹⁷⁴

¹⁶² Ibid.

¹⁶³ Human Rights Committee, general comment No. 36, para. 47.

¹⁶⁴ Ibid., para. 50.

¹⁶⁵ See <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>; and International Commission against the Death Penalty submission.

¹⁶⁶ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>; https://www.hri.global/files/2022/03/09/HRI_Global_Overview_2021_Final.pdf; <https://reports.deathpenaltyinfo.org/year-end/YearEndReport2021.pdf>; and <https://www.youtube.com/watch?v=qkluSj01NiA>.

¹⁶⁷ [CCPR/C/BWA/CO/2](#).

¹⁶⁸ [CAT/C/NGA/COAR/1](#).

¹⁶⁹ Project 39A submission.

¹⁷⁰ Justice Project Pakistan submission.

¹⁷¹ [CCPR/C/IRQ/CO/6](#).

¹⁷² [CCPR/C/BWA/CO/2](#).

¹⁷³ [CAT/C/NGA/COAR/1](#).

¹⁷⁴ Justice Project Pakistan submission.

E. Methods of execution and prohibition of public executions

45. According to the Human Rights Committee, States parties that have not abolished the death penalty must carry it out in such a way as to respect article 7 of the Covenant, which prohibits certain methods of execution, including stoning, injection of untested lethal drugs and public executions as well as other painful and humiliating methods of execution. The Committee has stated that failure to respect article 7 would render the execution arbitrary in nature and thus also in violation of article 6.¹⁷⁵ The Committee has also noted that countries which have not abolished the death penalty should establish laws and procedures regulating the use of death penalty as well as effective institutional safeguards to prevent arbitrary deprivation of life.¹⁷⁶ In its resolution 48/9, the Council called upon States that had not yet abolished the death penalty to be transparent with respect to their execution methods.

46. Reportedly, public executions were conducted in Yemen during the reporting period.¹⁷⁷ The Sudan introduced amendments to ban executions carried out in the same manner in which the offender caused death; however, the law still allows executions by stoning.¹⁷⁸

47. According to the Human Rights Committee, failure to provide persons on death row with timely notification about the date of their execution constitutes, as a rule, a form of ill-treatment, which renders the subsequent execution contrary to article 7 of the Covenant.¹⁷⁹ The Human Rights Committee expressed concern that in Botswana advance notice of the execution day was not given to prisoners and their families, and that the dead body was not returned to the family for private burial.¹⁸⁰ With regard to Belarus, it recalled that a failure to provide relatives with information on the date of execution and burial site of the body leaves families in a state of uncertainty and mental distress that constitutes a violation of the Covenant.¹⁸¹ In relation to the United States, special procedures expressed concern that there have been a number of instances of “botched executions” at the state level using lethal injections; reiterated recommendations to review the use of this execution method in order to prevent pain and suffering; and urged the country to ban the sale and transport of chemicals used in lethal injections.¹⁸²

48. In the United States, the Supreme Court of the State of South Carolina halted executions amid challenges to the constitutionality of a law passed by the state legislature making execution by firing squad and electrocution the two means of execution in the state.¹⁸³ In the State of Tennessee, the Governor suspended all executions and called for an independent review of the state’s execution protocol.¹⁸⁴ A federal Supreme Court decision permitted spiritual advisors to pray aloud and offer religious touch to prisoners in the execution chamber.¹⁸⁵

49. The Human Rights Committee has also noted that extreme delays in the implementation of a death penalty sentence that exceed any reasonable period of time necessary to exhaust all legal remedies could also entail violations of article 7 of the Covenant.¹⁸⁶ Further, the Human Rights Committee noted that States parties to the Covenant

¹⁷⁵ General comment No. 36, para. 40.

¹⁷⁶ *Ibid.*, para. 16.

¹⁷⁷ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

¹⁷⁸ The Miscellaneous Amendments Act of July 2020. Amendment to art. 27 (1) of the Criminal Act.

¹⁷⁹ General comment No. 36, para. 40.

¹⁸⁰ [CCPR/BWA/CO/2](https://www.ohchr.org/en/press-releases/2022/03/belarus-un-human-rights-committee-condemns-execution).

¹⁸¹ See <https://www.ohchr.org/en/press-releases/2022/03/belarus-un-human-rights-committee-condemns-execution>.

¹⁸² See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26045>; and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25703>.

¹⁸³ See <https://deathpenaltyinfo.org/news/executions-halted-in-south-carolina-amid-challenges-to-constitutionality-of-firing-squad-and-electric-chair>.

¹⁸⁴ See <https://deathpenaltyinfo.org/news/tennessee-governor-halts-executions-scheduled-for-2022-to-conduct-review-of-execution-protocol-oversight>.

¹⁸⁵ See https://www.supremecourt.gov/opinions/21pdf/21-5592_feah.pdf.

¹⁸⁶ General comment No. 36, para. 40.

should refrain from executing persons whose execution would be exceptionally cruel, such as persons of advanced age.¹⁸⁷ During the reporting period, the State of Texas in the United States executed a 78-year-old individual who had been on death row for 30 years.¹⁸⁸

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

A. Children

50. Article 6 (5) of the Covenant and article 37 (a) of the Convention on the Rights of the Child prohibit imposing the death penalty for crimes committed by persons under 18 at the time of the offence. The Committee on the Rights of the Child stated that article 37 (a) reflects the customary international law prohibition of the imposition of the death penalty for a crime committed by a person who is under 18 years of age¹⁸⁹ and reiterated that the explicit and decisive criterion was the age at the time of the commission of the offence.¹⁹⁰ If there is no reliable and conclusive proof that the person was below the age of 18 at the time the offence was committed, the individual should have the right to the benefit of the doubt and the death penalty cannot be imposed.¹⁹¹

51. Nevertheless, sentences of death for offences committed by persons under 18 reportedly remains lawful in some countries. The Committee against Torture was distressed that the death penalty could be inflicted on juveniles in Nigeria, and urged authorities to immediately prohibit the death penalty for all persons under 18, including in the states that operate under sharia.¹⁹² The death penalty was reportedly carried out against juvenile offenders in Iran (Islamic Republic of) and Saudi Arabia.¹⁹³ During the reporting period, offenders who were below the age of 18 when the crime was committed were believed to be on death row in Iran (Islamic Republic of), Maldives and Pakistan.¹⁹⁴

52. In his report on the situation of human rights in the Islamic Republic of Iran, the Secretary-General stated that, while article 91 of the Penal Code gives judges the discretion to exempt children from the death penalty, the continued imposition of death sentences for child offenders showed that that article has failed to have a significant impact. Further, some child offenders spend more than a decade awaiting their execution, causing great mental anguish that may amount to torture.¹⁹⁵ Special procedures repeatedly appealed to the Islamic Republic of Iran to halt the execution of child offenders, and demanded that it stop sentencing

¹⁸⁷ *Ibid.*, para. 49.

¹⁸⁸ See <https://deathpenaltyinfo.org/news/oldest-texas-death-row-prisoner-files-petition-for-clemency-citing-time-on-death-row-false-prediction-that-he-would-be-dangerous-in-prison>; and <https://www.cbsnews.com/news/texas-execution-carl-wayne-buntion-states-oldest-death-row-inmate/>.

¹⁸⁹ Committee on the Rights of the Child, general comment No. 24 (2019), para. 79. See also Commission on Human Rights resolution 2003/67.

¹⁹⁰ General comment No. 24, para. 79.

¹⁹¹ *Ibid.*; and Human Rights Committee, general comment No. 36, para. 48.

¹⁹² [CAT/C/NGA/COAR/1](#), paras. 27–28.

¹⁹³ See <https://www.amnesty.org/en/wp-content/uploads/2021/05/ACT5037602021ENGLISH.pdf>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26458>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26054>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26601>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26560>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25841>; and <https://news.un.org/en/story/2022/01/1109732>.

¹⁹⁴ See <https://www.amnesty.org/en/wp-content/uploads/2021/05/ACT5037602021ENGLISH.pdf>; and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26281>.

¹⁹⁵ [A/76/268](#), para. 7.

children to death,¹⁹⁶ while expressing concern regarding the imposition of death sentences on child offenders in cases raising fair trial concerns, including forced confessions.¹⁹⁷

53. Special procedure mandate holders also expressed grave concern about death sentences issued against juveniles in Pakistan and Saudi Arabia, including following trials that reportedly did not meet fair trial guarantees,¹⁹⁸ and about allegations of arbitrary arrest and torture.¹⁹⁹ The Working Group on Arbitrary Detention called upon Saudi Arabia to immediately release a person who was arrested when he was 14 years old, and sentenced to death following a trial involving irregularities, including the admission of a confession of guilt said to have been extracted under torture.²⁰⁰ The Working Group and the Special Rapporteur on extrajudicial, summary or arbitrary executions urged Saudi Arabia to adopt without delay the necessary legislative measures to abolish the imposition of the death penalty for children for all crimes, including in relation to offences punished under *qisas* and *hudud*.²⁰¹ The special procedures welcomed the decision of Saudi Arabia to commute the death sentences of three persons for crimes allegedly committed when they were minors.²⁰²

B. Persons with psychosocial or intellectual disabilities

54. The Human Rights Committee has stated that States must refrain from imposing the death penalty on individuals who face special barriers in defending themselves on an equal basis with others, such as persons whose serious psychosocial and intellectual disabilities impeded their effective defence, and persons that have diminished ability to understand the reasons for their sentence.²⁰³ Further, it has noted that violations of fair trial guarantees such as failure to provide accessible documents and procedural accommodation for persons with disabilities resulting in the imposition of the death penalty would render the sentence arbitrary in nature, in violation of article 6 of the Covenant.²⁰⁴ The Committee on the Rights of Persons with Disabilities has noted that persons with psychosocial or intellectual disabilities are more likely to be denied guarantees of fair trial due to the lack of procedural accommodations,²⁰⁵ and has called for the abolition of the death penalty and the suspension

¹⁹⁶ See <https://www.ohchr.org/en/2022/01/un-rights-experts-decry-imminent-execution-juvenile-offender-hosseini-shahbazi-iran>; <https://www.ohchr.org/en/press-releases/2021/12/iran-un-experts-say-executions-child-offenders-must-stop>; <https://www.ohchr.org/en/press-releases/2021/11/iran-halt-imminent-execution-juvenile-offender-arman-abdolali-un-rights>; and <https://www.ohchr.org/en/press-releases/2021/06/iran-un-experts-urge-iran-halt-execution-child-offender>.

¹⁹⁷ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26473>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25841>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26560>; and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26601>.

¹⁹⁸ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26281>.

¹⁹⁹ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26458>; and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26054>.

²⁰⁰ [A/HRC/WGAD/2021/72](#).

²⁰¹ See <https://www.ohchr.org/en/press-releases/2022/05/saudi-arabia-death-penalty-against-juvenile-offender-amounts-arbitrary>.

²⁰² See <https://www.ohchr.org/en/press-releases/2021/03/saudi-arabia-un-experts-welcome-commutation-death-sentences-three-minors?LangID=E&NewsID=26829>. In its submission, Saudi Arabia stated that the Royal Order issued in 2020 ended the application of the death penalty for persons convicted of crimes committed while they were minors.

²⁰³ General comment No. 36, para. 49. See also Economic and Social Council resolutions 1984/50 and 1989/64.

²⁰⁴ General comment No. 36, para. 41.

²⁰⁵ [CRPD/C/20/D/38/2016](#); and [CRPD/C/18/D/30/2015](#). See also [CRPD/C/IRN/CO/1](#), paras. 22–23.

of all death sentences of persons with psychosocial or intellectual disabilities, with a view to complying with article 10 of the Convention.²⁰⁶

55. Submissions by States noted provisions that limited the death penalty for persons with psychosocial or intellectual disabilities.²⁰⁷ China adopted its new Legal Aid Law to improve protection of vulnerable persons, including persons with psychosocial or intellectual disabilities, by appointing qualified legal aid defence lawyers during the Supreme Court's review of death penalty cases.²⁰⁸ In Pakistan, the Supreme Court ruled to prohibit the execution of persons with severe psychosocial or intellectual disabilities, and directed the federal and provincial governments to amend relevant laws to reinforce their protection at all stages of criminal proceedings.²⁰⁹ Consequently, the executive prepared the draft Criminal Law and Justice Reform Bill 2022 for submission to the legislature, which would create a state-appointed medical board, and would set minimum standards for conducting mental health evaluations.²¹⁰ In India, a bench of the Supreme Court was reported to have made psychological evaluation of prisoners mandatory.²¹¹ In the United States, the legislature of the State of Tennessee adopted a bill that provided for the judicial review of claims of intellectual disability of death-row prisoners.²¹²

56. Persons with psychosocial or intellectual disabilities reportedly were sentenced to death or remained on death row, including in Japan and Maldives,²¹³ and were executed, including in Singapore, South Sudan and the United States.²¹⁴ The special procedures issued urgent appeals for Singapore to halt the execution of four persons with alleged psychosocial or intellectual disabilities, including two foreign nationals, and urged Singapore to adopt a moratorium.²¹⁵ In its submission, Singapore stated that the death penalty was not imposed for drug-related offences when the accused proved that they had a psychosocial or intellectual disability and that they only played the role of a courier. A survey on mental health among death-row prisoners in India noted that 11 per cent of prisoners had been diagnosed with an intellectual disability that was not assessed during trial.²¹⁶

²⁰⁶ [CRPD/C/KWT/CO/1](https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-EN.pdf), paras. 20–21; [CRPD/C/SAU/CO/1](https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-EN.pdf), paras. 17–18. See also https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-EN.pdf.

²⁰⁷ Iraq, Oman, Saudi Arabia, Singapore and Syrian Arab Republic.

²⁰⁸ The Rights Practice submission.

²⁰⁹ See https://www.supremecourt.gov.pk/downloads_judgements/c.r.p._420_2016.pdf; and <https://www.ohchr.org/en/press-releases/2021/02/pakistan-un-experts-welcome-death-penalty-ban-individuals-mental-health>.

²¹⁰ International Bar Association's Human Rights Institute and Justice Project Pakistan submissions.

²¹¹ See <https://www.lawinsider.in/news/psychological-evaluation-of-condemned-prisoner-mandatory-supreme-court>.

²¹² HB 1062, 26 April 2021.

²¹³ See <https://www.amnesty.org/en/wp-content/uploads/2022/05/ACT5054182022ENGLISH.pdf>.

²¹⁴ See <https://www.ohchr.org/en/press-releases/2021/11/singapore-un-experts-urge-halt-execution-drug-offender-disabilities>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25627>; <https://deathpenaltyinfo.org/news/oklahoma-county-becomes-nations-third-most-prolific-county-executioner-as-state-puts-intellectually-impaired-teen-offender-to-death>; and <https://reports.deathpenaltyinfo.org/year-end/YearEndReport2021.pdf>.

²¹⁵ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26982>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27103>; <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27176>; <https://www.ohchr.org/en/press-releases/2021/11/singapore-un-experts-urge-halt-execution-drug-offender-disabilities>; and <https://www.ohchr.org/en/press-releases/2022/05/singapore-un-human-rights-experts-urge-immediate-death-penalty-moratorium>.

²¹⁶ See https://static1.squarespace.com/static/5a843a9a9f07f5ccd61685f3/t/616fd7988256c93ab9735618/1634719720928/Deathworthy_MainReport_19Oct_2021.pdf.

VI. Gender dimensions of the death penalty

57. Article 6 (5) of the Covenant prohibits carrying out the death penalty on pregnant women, and the minimum safeguards of the Economic and Social Council extend the prohibition to new mothers.²¹⁷ In their submissions, States highlighted provisions prohibiting the execution of pregnant women in their jurisdictions.²¹⁸ Other submissions highlighted that in countries where death sentences were suspended for pregnant women and mothers of infants, there were reportedly higher risks of wrongful convictions as suspended death sentences were subject to a lower standard of reviews.²¹⁹ Women whose death sentences have been suspended may also suffer psychological distress that resembles the death row phenomenon.²²⁰ Submissions also referred to the mental health impacts of the death penalty on women on death row.²²¹

58. Women represent a small percentage of global death sentences, and as such, their situation has been insufficiently addressed. A study by the Cornell Center on the Death Penalty Worldwide showed that, while international law protects pregnant women and mothers of dependent infants from execution, those that are sentenced to death are subjected to multiple forms of gender bias.²²² In certain countries, most women sentenced to death are foreign migrant workers who are subject to discriminatory treatment.²²³ Mental illness and intellectual disability are common among women facing the death penalty, and many enter prison as survivors of long-term gender-based violence. However, in many death penalty jurisdictions, gender-based violence is either not considered or not fully taken into account at sentencing.²²⁴ During the reporting period, the special procedures issued an urgent appeal to the United States concerning the imminent execution of a woman following judicial proceedings that deprived her of the right to defend herself, and resulted in a conviction allegedly based on inconclusive evidence and that failed to adequately address her lifetime experience of abuse, including gender-based violence.²²⁵

59. The nineteenth World Day against the Death Penalty, held in 2021, focused on women sentenced to death. On that occasion, the European Union and the Council of Europe highlighted the continued impact of gender-based discrimination on women at all levels of the criminal justice system, including in the imposition of death sentences for offences linked to sexual morality, such as adultery, and the lack of consideration of mitigating circumstances related to gender-based violence and abuse.²²⁶ The High Commissioner for Human Rights has noted that women are disproportionately sentenced to death for the crime of murder in contexts where they have been survivors of sexual violence, and recalled that the imposition of the death penalty on a victim who was exercising self-defence constitutes an arbitrary killing. Further, women are disproportionately impacted by drug-related offences, and often

²¹⁷ Economic and Social Council resolution 1984/50, annex, para. 3.

²¹⁸ Submissions of Iraq, Oman, Saudi Arabia, Singapore and the Syrian Arab Republic.

²¹⁹ The Rights Practice submission; and <https://www.rights-practice.org/Handlers/Download.ashx?IDMF=5f11f4d7-b999-4a11-8412-9668d62222b6>.

²²⁰ The Rights Practice submission.

²²¹ Reprieve submission.

²²² See <https://deathpenaltyworldwide.org/publication/judged-more-than-her-crime/?version=html#executive-summary>.

²²³ See <https://deathpenaltyworldwide.org/publication/judged-more-than-her-crime/?version=html#executive-summary>. See also <http://fileserv.idpc.net/library/No-One-Believed-Me.pdf>.

²²⁴ See <https://deathpenaltyworldwide.org/publication/judged-more-than-her-crime/?version=html#executive-summary>.

²²⁵ See

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27157>. See also http://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2022/087.asp.

²²⁶ See <https://www.consilium.europa.eu/en/press/press-releases/2021/10/08/european-and-world-day-against-the-death-penalty-joint-statement-by-the-high-representative-on-behalf-of-the-european-union-and-the-secretary-general-on-behalf-of-the-council-of-europe/>.

have lower chances than men do of having their cases reviewed and overruled due to gender bias in capital appeals.²²⁷

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

60. 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.²²⁸ In its resolution 48/9, the Council called upon States to ensure that children whose parents or parental caregivers are on death row are provided, in advance, with adequate information about a pending execution, and to allow a last visit or communication with the convicted individual and the return of the body to the family for burial, or to provide information about where the body is located, unless this is not in the best interests of the child. The High Commissioner for Human Rights has noted that children and family members of individuals sentenced to death or executed suffer extreme psychological distress, economic hardship and social stigmatization.²²⁹

61. In their submissions, few stakeholders addressed the situation of children of parents sentenced to death or executed. The Republic of Korea indicated that it provided psychological counselling for children of parents sentenced to the death penalty who were suffering from psychological anxiety and social stigma. Saudi Arabia noted that relevant authorities took necessary measures to protect the psychological and physical well-being of children. Singapore stated that authorities conducted identification and referral of children's needs for interim social and financial support in the community.

VIII. Conclusions and recommendations

62. **The Secretary-General welcomes the steady progress towards the universal abolition of the death penalty. Encouraging steps include the deposit of new instruments of ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the adoption of national laws abolishing the death penalty for all crimes and establishing judicial discretion by removing mandatory death penalties.**

63. **With respect to countries that have not yet abolished the death penalty, the Secretary-General welcomes the overall trend of decreased use in the last few years. However, he notes with concern that, after suspensions due partly to restrictions related to the COVID-19 pandemic, the imposition and application of the death penalty has resumed or increased in a number of countries. The Secretary-General reiterates his recommendation that States that continue to use the death penalty should adopt a moratorium on executions with a view to abolition. Where a long de jure or de facto moratorium on the use of the death penalty has been observed, resuming its use could be contrary to the object and purpose of article 6 of the Covenant.**

64. **The Secretary-General recalls that all States should fully respect their obligations under international human rights law. 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, and refrain from using it for crimes not involving intentional killing, such as drug-related offences or overly broad terrorism-related crimes.**

65. **States should abolish the mandatory death penalty. Further, a process that takes into account the personal circumstances of the offender and the particular**

²²⁷ See <https://www.ohchr.org/en/speeches/2020/09/75th-session-un-general-assembly-virtual-high-level-side-event-death-penalty-and>.

²²⁸ General comment No. 36, para. 49.

²²⁹ See <https://www.ohchr.org/en/speeches/2020/09/75th-session-un-general-assembly-virtual-high-level-side-event-death-penalty-and>.

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.

66. Pending abolition, States should also 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.

67. The Secretary-General urges States to comply with transparency requirements on the imposition and application of the death penalty, and systematically and publicly provide full, accurate and disaggregated data on death sentences in order to facilitate a fully informed public debate on the scope of the use of the death penalty and its impact on human rights.

68. The Secretary-General recalls that international human rights law prohibits the imposition of the death penalty for crimes committed by persons under the age of 18 at the time of the offence, and encourages States to ensure that this prohibition is clearly reflected in national legislation. Further, the Secretary-General echoes the view of the Human Rights Committee that in the absence of reliable and conclusive proof that the person was not below the age of 18 at the time the crime was committed, States must grant the benefit of the doubt and ensure that the death penalty will not be imposed. States should immediately halt executions of juvenile offenders and resentence them to appropriate custodial terms, rather than automatic life sentences.

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

70. The Secretary-General calls upon States to pay more attention to the gender dimension of the death penalty, including by addressing multiple forms of gender bias faced by women sentenced to death, such as migrant women and survivors of gender-based violence.

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

72. The Secretary-General reiterates that he shares the view of the Human Rights Committee that the death penalty cannot be reconciled with full respect for the right to life, and that the abolition of the death penalty is desirable and necessary for the enhancement of human dignity and the progressive development of human rights, and recalls that there is no conclusive evidence to support the proposition that the death penalty deters crime more effectively than any other punishment.

73. The Secretary-General encourages States to adopt further measures to limit the application of, or abolish, the death penalty in order to accelerate progress towards universal abolition and ensure full respect for the fundamental right to life.
