



Cornell Law School
Cornell Center on the Death Penalty Worldwide



To: Office of the High Commissioner for Human Rights

From: The World Coalition Against the Death Penalty (WCADP) **with** Anti Death Penalty Asia Network (ADPAN), The Advocates for Human Rights (TAHR), Capital Project Punishment (CPJP), CHESO, the Cornell Center on the Death Penalty Worldwide (CCDPW), Humanity Diaspo, International Federation for Human Rights (FIDH), Justice project Pakistan (JPP), Legal Awareness Watch Pakistan, (PRI), Reprieve, Women Beyond Walls, Women and Harm Reduction International Network (WHRIN).

Date: 13/11/2024

Re: Call for input: “Accelerating efforts to eliminate all forms of violence against women and girls: preventing and responding to all forms of violence against women and girls in criminal justice detention”

The World Coalition Against the Death Penalty (WCADP) was founded in Rome on May 13th, 2002. Is an alliance of over 160 NGO’s, bar associations and local authorities strengthening the international dimension of the fight against the death penalty. Its objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. The World Coalition Against the Death Penalty is committed to making visible gender and intersectional discrimination at work in capital punishment as well as to strengthen the protection of women and gender and sexual minorities facing the death penalty.

Anti Death Penalty Asia Network is the peak regional body for organisations committed to the abolition of the death penalty across Asia-Pacific, with members from 20 countries within the region. As such, ADPAN maintains that the death penalty violates the right to life, that it is the ultimate form of cruel, inhuman, and degrading punishment and that the death penalty should be entirely abolished internationally.

Founded in 1983, **The Advocates for Human Rights (TAHR)** is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States, including LGBTIQ+ individuals who have experienced discrimination and violence based on sexual orientation, gender identity and expression, and sex characteristics.

Capital Project Punishment is an Australian based NGO that stands for a world without the death penalty or other forms of state-sanctioned killing. CPJP is a human rights organisation made up predominantly of passionate legal experts and campaigners who volunteer their time to develop legal and policy solutions that help save lives. CPJP works closely with partners in Asia – where over 90 per cent of the world’s executions take place – to support the defence of people facing the death penalty, assist local anti-death penalty civil society organisations, and campaign to convince governments to abolish the death penalty.

Children Education Society (CHESO), work Empowering communities to trace, support and refer out of school *children* into formal and non-formal *education* institutions

The **Cornell Center on the Death Penalty Worldwide** is a US-based research, advocacy, and training center focused on capital punishment and international law. It publishes reports and manuals on death penalty issues, provides transparent data on death penalty laws and practices around the world, trains capital lawyers in best practices, and engages in targeted advocacy and litigation. Its staff and faculty advisors have collectively spent more than eight decades representing hundreds of prisoners facing the death penalty.

Humanity Diaspo, is an apolitical, non-denominational, non-profit, humanitarian, development, TechForGood and intersectional feminist Non-Governmental Organization (NGO). Founded in 2018, the Humanity Diaspo NGO, in association with local entities or on its own, is dedicated to supporting populations in situations of distress, exile and migration, precariousness, exclusion in all its forms.

International Federation for Human Rights (FIDH) is an international human rights NGO federating 188 organisations from 116 countries. Since 1922, FIDH has been defending all civil, political, economic, social and cultural rights as set out in the Universal Declaration of Human Rights.

The Justice Project Society, commonly referred to as **Justice Project Pakistan (JPP)**, is a legal action non-government organization dedicated to representing the most vulnerable Pakistani prisoners facing the harshest punishments, including those facing the death penalty, prisoners with psychosocial disabilities, victims of police torture, and juvenile prisoners, and overseas Pakistani prisoners. JPP was formed in Lahore, Pakistan in December 2009. JPP investigates, advocates, educates, and litigates, building public and political support as well as legal precedents that will lead to systemic reform of the criminal justice system in Pakistan. Our work combines strategic litigation, fierce domestic and international public and policy advocacy campaigns, and building the capacity of stakeholders who can improve the representation and treatment of individuals facing capital punishment in Pakistan and abroad.

Legal Awareness Watch Pakistan (LAW), is a nonpartisan, non-profitable NGO advocating, and raising awareness in Pakistan on human rights of prisoners in Pakistani prisons i.e. the right to vote, right to dignity, right to life etc.

Penal Reform International is a non-governmental organisation working globally to promote criminal justice systems that uphold human rights for all and do no harm. PRI work to make criminal justice systems non-discriminatory and protect the rights of disadvantaged people. PRI run practical human rights programmes and support reforms that make criminal justice fair and effective.

Reprieve is a charitable organization registered in the United Kingdom (No. 1114900), with special consultative status with the United Nations Economic and Social Council (ECOSOC). Reprieve provides free legal and investigative support to those who have been subjected to state-sponsored human rights abuses. Reprieve protect the rights of those facing the death penalty and of victims of arbitrary detention, torture, and extrajudicial execution.

Women Beyond Walls is a movement-building platform that amplifies voices to end the excessive incarceration and criminalization of women worldwide. Women Beyond Walls aims to build collective power and resource resilience to shape advocacy and political agendas.

WHRIN. The vision of WHRIN is that all women and gender diverse people who use drugs have unfettered access to available, quality, relevant health, social and legal services in a context of upholding human rights without stigma, discrimination or criminalisation. Read more at: whrin.site.

EXECUTIVE SUMMARY

1. The abolitionist movement has long ignored the situation of women under sentence of death. Women make up a small minority of the world's death row population, but their experiences prior to coming into conflict with the law as well as within the criminal legal system are characterized by pervasive gender-based discrimination. Most women under sentence of death are survivors of gender-based violence. Yet detention conditions typically exacerbate trauma, whether through gender-based violence at the hands of prison staff or other people in detention, or through degrading detention conditions and the denial of access to appropriate hygiene products and facilities. Trans women are even more likely to face gender-based violence than their cis-gender counterparts.

Women on death row

2. Women represent less than 5% of the world's death row population.¹ As of December 2022, at least 4857 women were believed to be on death row in at least 41 countries.²
3. Since 2012, 15 countries have executed women: Afghanistan, China, Egypt, Gambia, Indonesia, Iraq, Iran, Jordan, Kuwait, North Korea, Oman, Saudi Arabia, Singapore, Somalia, and the USA.
4. A groundbreaking 2018 study by the Cornell Center on the Death Penalty Worldwide shows that a large majority of women on death row are from ethnic and racial minorities, are non-literate, have intellectual, mental and/or psychosocial disabilities, and have experienced gender-based violence.³
5. Worldwide, most women have been sentenced to death for the crime of murder, often in relation to killing a family member in a context of gender-based violence.⁴
6. The second crime for which women are sentenced to death is drug trafficking. Women from marginalized communities, particularly women with limited education and job opportunities, are often coerced into participating in drug trafficking as a means of economic survival.⁵

KENYA

7. As of July 2023, there were between 22⁶ and 26⁷ women on death row and approximately 597 women were in pre-trial custody on capital charges.⁸ As of February 2024, it was estimated that two women were on death row in Kenya, after President William Ruto commuted all death sentences which had been imposed before November 2022 to life imprisonment. According to ICJ Kenya, "a large proportion of the

¹ Cornell Center on the Death Penalty Worldwide, *Judged For More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, by Lourtau, D., Babcock, S., Hickey, S.P., Ahmed, Z. & Maymon, P.L. (Cornell Law School, 2018), p9.

² World Coalition Against the Death Penalty, *Data Mapping: Women on Death Row*, 2023.

³ Cornell Center on the Death Penalty Worldwide, *Judged For More Than Her Crime*, 2018.

⁴ Ibid.

⁵ Cornell Center on the Death Penalty Worldwide, *No One Believed me: A Global Overview of Women Facing the Death Penalty for Drug Offenses*, October 2021.

⁶ Amnesty International, *Death sentence does not help reduce crime, do away with it*, October 2023, accessible at: <https://www.amnestykenya.org/death-sentence-does-not-help-reduce-crime-do-away-with-it/>

⁷ Carolyn Hoyle and Lucrezia Rizzell, *Living With a Death Sentence in Kenya: Prisoners' Experiences of Crime, Punishment and Death Row*, 2023, accessible at: <https://worldcoalition.org/document/living-with-a-death-sentence-in-kenya-prisoners-experiences-of-crime-punishment-and-death-row/>

⁸ World Coalition Against the Death Penalty, *Reflecting on the links between the death penalty and gender-based violence*, 2023, accessible at: <https://worldcoalition.org/2022/11/25/reflecting-on-the-links-between-the-death-penalty-and-gender-based-violence/>

approximately 597 women currently in custody on death row charges (based on data from Kenya prisons) have been convicted of murder in the context of gender-based violence.”⁹

MALAYSIA

8. As of August 2024, 103 women are under a sentence of death in Malaysia.¹⁰
9. It is anticipated that the welcome steps taken by the Government of Malaysia to abolish the mandatory death penalty from its sentencing regime through the Abolition of the Mandatory Death Penalty Act 2023 and the Natural Life (Temporary Jurisdiction of The Federal Court) Act 2023, will significantly reduce the number of women sentenced to death and remaining on death row in Malaysia¹¹, especially given that 95% of women on death row in Malaysia were on death row for drug offences¹².
10. Although authorities confirmed that most of the women eligible for resentencing were convicted of either drug trafficking or murder, they provided no further disaggregated data. In Southeast Asia, most women are sentenced to death for crimes that arise out of “their relationships, be it with their dependents, intimate romantic partners, friends, or relatives.”¹³ “[M]anipulative or coercive intimate relationships” can have an effect on the lives of women charged with drug-related offenses.¹⁴
11. Most women sentenced to death in Malaysia are foreign nationals.¹⁵ In 2019, 121 female foreign nationals were on death row, 120 for drug offenses.

NIGERIA

12. In Nigeria, 73 women were on death row as of April 2024.¹⁶
13. Historical statistics show that most women on death row had been convicted of murder or culpable homicide.¹⁷

TANZANIA

14. From 2009 to 2014 when the number of death row inmates were made public by the government on the basis of sex, Tanzania had a total of 83 women on death row over

⁹ Ibid.

¹⁰ Question 557, Parliament reply, 1st Meeting, 3rd Term, 15th Parliament. Available at <https://parlimen.gov.my/files/jindex/pdf/JBL27032024.pdf>

¹¹ Submission of the Anti-Death Penalty Asia Network for the review of Malaysia at the 88th Session of the Committee on the Elimination of Discrimination, available at: <https://adpan.org/wp-content/uploads/2024/05/ADPAN-Malaysia-CEDAW-Report-pdf>

¹² Amnesty International, *Fatally Flawed: Why Malaysia Must Abolish the Death Penalty*, Report, 2019, available at: <https://www.amnesty.org/en/documents/act50/1078/2019/en>

¹³ Carolyn Hoyle & Lucy Harry, *Compounded Vulnerability: Foreign National Women and the Death Penalty in Southeast Asia*, Amicus J., 2020, available at: https://ora.ox.ac.uk/objects/uuid:95bb8b41-184a-428c-91e5-4795bba8bfbf/download_file?safe_filename=Hoyle___Harry_for_Amicus_Journal_March_6_2020_copy.pdf&type_of_work=Journal+article

¹⁴ Cornell Center on the Death Penalty Worldwide, *No One Believed me: A Global Overview of Women Facing the Death Penalty for Drug Offenses*, October 2021.

¹⁵ Amnesty International, *Fatally Flawed: Why Malaysia must abolish the death penalty*, 2019, p. 6. Available online at <https://www.amnesty.org/en/documents/act50/1078/2019/en/>.

¹⁶ Punch, *Why 3,504 inmates on death row haven't been executed, says NCos*, 2024, available at: <https://punchng.com/why-3504-inmates-on-death-row-havent-been-executed-says-ncos/>. Please note that these figures come from a spokesperson during an in-person conference. Formal figures from Amnesty International Global Report 2022 on Death Penalty note that there were 2,325 people on death row in Nigeria as of December 2022, including 61 women.

¹⁷ Amnesty International, *Nigeria: Waiting for the Hangman*, 2008, available at: <https://www.amnesty.org/en/wp-content/uploads/2021/06/afr440202008en.pdf>

this span of 7 years.¹⁸ In June of 2017, there were at least 20 women on death row in main Tanzania¹⁹.

USA

15. As of the end of 2023, 46 women were under sentence of death in the United States of America.²⁰
16. At least 96% of the women currently on death row in the USA experienced gender-based violence prior to incarceration. Almost 90% experienced at least one incident of sexual or physical violence, and over 80% experienced at least one form of psychological violence.²¹

Prison conditions for women under sentence of death

17. The Cornell Center observes that the gender-based violence “that many women face prior to their incarceration is often replicated in the carceral system: prison conditions, death row itself, and a prison system designed for men exacerbate the effects of prior GBV, creating more extreme sentences and conditions amounting to torture.”²² For example, prior to being arrested and sentenced to death, Lisa Montgomery (USA) had been raised in captivity where her stepfather and his friends repeatedly raped her.²³ Upon transfer to death row, her clothing amounted to an ill-fitting “safety smock” with no undergarments, her cell was constantly illuminated, and she was constantly under surveillance by male guards.²⁴ Guards could observe her while she showered.²⁵ These male guards “wielded control over her daily life and basic necessities and subjected her to humiliating and degrading treatment”—treatment that men on death row did not experience.²⁶

Mis-segregation of trans women

18. In most prisons in the United States, “the default . . . is to house people in prisons that match the sex they were assigned at birth,” and some prisons “don’t even acknowledge the existence of trans people in their policies.”²⁷ Similarly, Malaysia’s Prison Department segregates people “based on the person’s sexual organs or the gender they were assigned at birth,” and as a result trans women may be detained in men’s prison

¹⁸Written Speeches: Ministers for Home Affairs during Parliamentary Budget Sessions in Dodoma for the year 2008/2009 delivered in July 2008 at page 61, 2009/2010 in July 2009 at page 44, 2010/2011 in June 2010 at pages 55-56, 2011/2012 in July 2011 at page 41, 2012/2013 in July 2012 at page 59, 2013/2014 in May 2013 at page 62 and 2014/2015 in May 2014 at pages 64, 65.

¹⁹Legal and Human Rights Centre & Zanzibar Legal Services Centre, Bi-Annual Tanzania Human Rights Report 2017, p. 6, <http://www.humanrights.or.tz/reports/bi-annual-tanzania-human-rights-report-2017>, Jul. 31, 2017.

²⁰ Amnesty International, Death sentences and executions Global Report 2023, available at: <https://www.amnesty.org/en/documents/act50/7952/2024/en/>

²¹ Sandra Babcock and Nathalie Greenfield, Gender, Violence and the Death Penalty, in CWSL Scholarly Commons, 2023, available at:

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

²² Cornell Center on the Death Penalty Worldwide, *World Day Against the Death Penalty – Gendered Torture on Death Row: A Factsheet*, at 1, Oct. 20, 2022, <https://deathpenaltyworldwide.org/publication/gendered-torture-on-death-row-world-day-2022/>.

²³ *Id.* at 4.

²⁴ *Id.* at 1, 4.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Jessica Schulberg, *Inside the Brutal Struggle for Trans Care in Prison*, Huffington Post, Nov. 28, 2023, https://www.huffpost.com/entry/trans-rights-prison-amber-kim_n_6557ce06e4b0998d69a049d4.

facilities.²⁸ The Thai Department of Corrections houses trans women in dormitories with men and requires them to use the same toilets as men.²⁹

Exposure to gender-based violence

19. While incarcerated, women on death row also face gender-based violence, a detention condition that is particularly alarming given that the vast majority of women on death row had survived gender-based violence prior to incarceration.
20. Moreover, “LGBTQ prisoners were over six times as likely to be sexually assaulted as the general prison population, placing transgender women at increased risk of traumatization.”³⁰
21. Women are generally held in separate units within men’s prisons. Some civil society organizations point out that when women are not completely separated from men, segregation within a prison can make women more vulnerable to sexual assault, as in Cameroon,³¹ the Democratic Republic of Congo, Equatorial Guinea, and the Gambia. A prison riot in Kasapa central prison in the DRC in 2020 led to the rape of women on death row by men on death row who had incited the riot.³²
22. Eleos Justice and the Cornell Center recently reported that women on death row in Sri Lanka live in units staffed by men, exposing them to “ongoing risks of gender-based violence” as well as “abusive searches, physical and psychological violence, and rapes.”³³
23. In countries where male guards are permitted to work in female prisons, both consensual and coerced relationships can occur between male guards and female inmates. The Cornell Center explains that because “prison officials wield ‘complete authority’ over women in their prisons, it increases the danger of staff sexually abusing prisoners.”³⁴ In Tanzania, reports indicate the existence of “transactional relationships,”³⁵ where female prisoners exchange sex for protection and food from male guards. In Maroua Prison in northern Cameroon, women do not have access to telephones, but some male guards will pass along messages in exchange for payment. One attorney reported his client “was so desperate to reach him to share vital

²⁸ Anti-Death Penalty Asia Network et al., *Malaysia’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women in Relation to the Death Penalty*, 30 Jan. 2023, ¶ 50, <https://www.theadvocatesforhumanrights.org/Res/CEDAW%20Malaysia-ADPAN.pdf>.

²⁹ The Advocates for Human Rights et al., *Thailand’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Prior to Reporting Relating to the Death Penalty*, 3 Oct. 2022, ¶ 31,

<https://www.theadvocatesforhumanrights.org/Res/Thailand%20CEDAW%20LOIPR%20death%20penalty%20FINAL.pdf>.

³⁰ Cornell Center on the Death Penalty Worldwide, *World Day Against the Death Penalty – Gendered Torture on Death Row: A Factsheet*, at 1, Oct. 20, 2022, <https://deathpenaltyworldwide.org/publication/gendered-torture-on-death-row-world-day-2022/>.

³¹ ECPM, Droits et Paix, RACOPEM, Fact-findings mission on death row in Cameroon, 2019, available at <https://www.ecpm.org/app/uploads/2022/08/mission-enquete-cameroun-2019-GB.pdf> (only available in French).

³² La Libre Afrique, *RDCongo: un an après, les détenues violées n’ont toujours reçu de soins*, 2021 (available only in French).

³³ Monash University, Eleos Justice, & Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women* (March 2023), at 26, <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

³⁴ Cornell Center on the Death Penalty Worldwide, *World Day Against the Death Penalty – Gendered Torture on Death Row: A Factsheet*, at 1, Oct. 20, 2022, <https://deathpenaltyworldwide.org/publication/gendered-torture-on-death-row-world-day-2022/>.

³⁵ Johnson John Mbwambo, Legal and Human Rights Centre, Tanzania, Interview with the Cornell Center on the Death Penalty Worldwide, cited in Cornell Center on the Death Penalty Worldwide, *Judged for more than her crime*, 2018.

information about her case that she agreed to give sexual favours in exchange for being able to contact her lawyer.”³⁶ A U.S. Justice Department investigation concluded that prison staff in a Florida facility housing women on death row engaged in “severe and pervasive sexual abuse and rape” of women. Some staff required that women undress in exchange for items such as toilet paper. If a woman complained, guards would send her to solitary confinement and threaten to kill her. The report found that sex between staff and detained women was a “regular event.”³⁷

24. In some instances, the abuse of women’s bodies becomes a tool of state repression. Investigations into the treatment of female political prisoners in Iran during the 1980s uncovered instances where young women were subjected to state-sanctioned sexual violence before their executions.³⁸
25. One Tunisian woman “reported that she had been subjected to frequent and humiliating strip searches at [Manouba] prison, including upon admission to the prison and each time she left her cell to take care of administrative paperwork.”³⁹
26. In China, women in prison suffer at the hands of “cell trustees” who control their cellmates through abusive means, sometimes leading to deaths.⁴⁰
27. In one women’s prison in Singapore, a contractor expressed shock ““at how harsh the officers were towards the prisoners,’ yelling at them, ““Who said you can look! Look away! Face the wall!” . . . She was so fierce, I felt scared myself.”⁴¹ In Thai prisons, women must sit on the floor when addressing prison guards and even when prison guards walk past their cells. If they fail to address guards and officers as “sir” or “madam,” they can face punishment.⁴²

³⁶ Monash University, Eleos Justice, & Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women* (March 2023), at 32, <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

³⁷ Monash University, Eleos Justice, & Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women* (March 2023), at 32, <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

³⁸ Maryam Hosseinkhah, *The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code*, Iran Human Rights Documentation Center, cited in Cornell Center on the Death Penalty Worldwide, *Judged for more than her crime*, 2018.

³⁹ The Advocates for Human Rights et al., *Tunisia’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: The Death Penalty*, 9 Jan. 2023, ¶ 24, <https://www.theadvocatesforhumanrights.org/Res/Tunisia%20CEDAW%20death%20penalty%20FINAL%202022.pdf>.

⁴⁰ Nicola Macbean, affiliated with the Rights Practice, Interview with the Cornell Center on the Death Penalty Worldwide, cited in Cornell Center on the Death Penalty Worldwide, *Judged for more than her crime*, 2018.

⁴¹ The Advocates for Human Rights et al., *Singapore’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, 3 Oct. 2022, ¶ 34, <https://www.theadvocatesforhumanrights.org/Res/Singapore%20CEDAW%20LOI%20death%20penalty%20FINAL.pdf>.

⁴² The Advocates for Human Rights et al., *Thailand’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Prior to Reporting Relating to the Death Penalty*, 3 Oct. 2022, ¶ 29, <https://www.theadvocatesforhumanrights.org/Res/Thailand%20CEDAW%20LOIPR%20death%20penalty%20FINAL.pdf>.

28. In Jamaican prisons, “[a]buse and physical violence [are] pervasive,” and women face “widespread sexual violence.” This abuse “has left two-thirds of women in detention with post-traumatic stress disorder.”⁴³
29. Civil society organizations in Yemen say reports of rape and other sexual violence against women in Houthi-controlled detention facilities have increased.⁴⁴
30. Women at risk of being sentenced to death experience gender-based violence in pretrial detention. A woman under sentence of death in the Democratic Republic of Congo reported that police beat her and stripped her naked in front of her child during her interrogation.⁴⁵
31. Most countries with women under sentence of death fail to provide support to those women who are survivors of gender-based violence prior to incarceration. The Cornell Center reports that “[m]ental healthcare is rarely available even though a high percentage of women in prison have histories of sexual and physical trauma and are susceptible to depression.”⁴⁶ For example, psychological care for women on death row is generally inadequate in Tunisia, and suicide attempts are frequent.⁴⁷ One woman on death row in Thailand told an NGO that she received no help even after she informed a prison guard about her depression and suicidal thoughts. Another woman reported that when women with psycho-social disabilities displayed neuro-divergent behavior, guards tied them up and even subjected them to electric shocks.⁴⁸

Limited access to gender-specific health care, including for women who have experienced gender-based violence

32. Detention facilities often fail to take into account the specific needs of women sentenced to death.
33. While the Bangkok Rules for the Treatment of Women Prisoners and Offenders require “easy access” to hygiene articles and menstrual products, as well as the possibility of washing or disposing of bloodstained articles in a hygienic manner, women sentenced to death do not have adequate access to menstrual and other gender-specific hygiene products. In Nigeria and Zambia, for example, individuals on death row have no access

⁴³ The Advocates for Human Rights et al., *Jamaica’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: The Death Penalty*, 11 Sept. 2023, ¶ 22, <https://www.theadvocatesforhumanrights.org/Res/AHR%20WCADP%20GCL%20CCDPW%20Jamaica%20CEDAW%20FINAL.pdf>.

⁴⁴ The Advocates for Human Rights and the World Coalition Against the Death Penalty, *Yemen’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: The Death Penalty*, 20 Sept. 2021, ¶ 9, <https://www.theadvocatesforhumanrights.org/Res/AHR%20Yemen%20DP%20CEDAW%202.pdf>.

⁴⁵ Monash University, Eleos Justice, & Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women* (March 2023), at 33, <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

⁴⁶ Cornell Center on the Death Penalty Worldwide et al., *Prison conditions for women facing the death penalty: A factsheet*, Oct. 1, 2018, at 3, <https://deathpenaltyworldwide.org/wp-content/uploads/2020/02/Prison-conditions-for-women-facing-death-penalty.pdf>.

⁴⁷ The Advocates for Human Rights et al., *Tunisia’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: The Death Penalty*, 9 Jan. 2023, ¶¶ 22, 24, <https://www.theadvocatesforhumanrights.org/Res/Tunisia%20CEDAW%20death%20penalty%20FINAL%202.pdf>.

⁴⁸ The Advocates for Human Rights et al., *Thailand’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Prior to Reporting Relating to the Death Penalty*, 3 Oct. 2022, ¶ 28, <https://www.theadvocatesforhumanrights.org/Res/Thailand%20CEDAW%20LOIPR%20death%20penalty%20FINAL.pdf>.

to menstrual products and instead use pieces of cloth which they frequently wash with inadequate detergent, as the prison does not provide soap. Some prisons withhold sanitary towels as a punitive measure.⁴⁹ In one Malaysian prison, women under sentence of death who have little to no access to outside funds receive 10 thin sanitary pads, a quarter-bar of body soap, and a quarter-bar of detergent, to last for four months. Women are forced to cut up old shirts to use and reuse during menstruation, and as a result experience ringworm infections.⁵⁰ Moreover, people on death row are not authorized to work, denying women opportunities to generate income to purchase sanitary supplies.⁵¹ Similarly, women in prisons in Trinidad and Tobago are often dependent on occasional charitable drives to gather hygiene products.⁵² The two prisons in Lebanon where women are under sentence of death provide no menstrual hygiene products or cleaning products to women.⁵³ In Thailand, women under sentence of death must purchase their own sanitary napkins but have very limited opportunities to earn money to purchase them.⁵⁴

34. Prison authorities often ignore women's special needs, particularly in terms of sexual and reproductive health, medical care, and mental health. In many cases, women sentenced to death face serious health problems and inadequate care. Alice Nungu, sentenced to death in Malawi for killing her violent husband in self-defense, was HIV-positive and fell ill with pneumonia and malaria, but received no medical treatment. Authorities eventually released her after a retrial, but she died a few weeks later of HIV-related complications.⁵⁵
35. A 2014 report calculated that 40 retentionist states worldwide allowed a child to be housed with its mother sentenced to death.⁵⁶ Eleos Justice and the Cornell Center recently reported that children are living with mothers sentenced to death in Cameroon,

⁴⁹ Stephanie M. Topp et al, *Health and healthcare access among Zambia's female prisoners: a health systems analysis*, Intl. Journal for Equity in Health, Vol.15: 157, Sept. 26, 2016 and Penal Reform International, *Women in Prison: Incarcerated in a Man's World*, (Penal Reform Briefing 2008), 7.

⁵⁰ HAYAT et al., *Malaysia's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women in Relation to the Death Penalty*, Apr. 15, 2024, ¶ 38, [https://www.theadvocatesforhumanrights.org/Res/CEDAW%20Malaysia%20-%20May%202024%20-%20HAYAT%20\(1\).pdf](https://www.theadvocatesforhumanrights.org/Res/CEDAW%20Malaysia%20-%20May%202024%20-%20HAYAT%20(1).pdf).

⁵¹ Anti-Death Penalty Asia Network et al., *Malaysia's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women in Relation to the Death Penalty*, 30 Jan. 2023, ¶ 46, <https://www.theadvocatesforhumanrights.org/Res/CEDAW%20Malaysia-ADPAN.pdf>.

⁵² The Advocates for Human Rights et al., *Trinidad and Tobago's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Prior to Reporting Relating to the Death Penalty*, 30 Jan. 2023, ¶ 18, <https://www.theadvocatesforhumanrights.org/Res/Trinidad%20and%20Tobago%20CEDAW%20LOIPR%20DP%20FINAL.pdf>.

⁵³ The Advocates for Human Rights et al., *Lebanon's Compliance with Convention on the Elimination of All Forms of Discrimination against Women: The Death Penalty*, 12 Jan. 2022, ¶ 19, <https://www.theadvocatesforhumanrights.org/Res/Lebanon%20CEDAW.pdf>.

⁵⁴ The Advocates for Human Rights et al., *Thailand's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Prior to Reporting Relating to the Death Penalty*, 3 Oct. 2022, ¶ 26, <https://www.theadvocatesforhumanrights.org/Res/Thailand%20CEDAW%20LOIPR%20death%20penalty%20FINAL.pdf>.

⁵⁵ See The Alice Project at the Cornell Center on the Death Penalty Worldwide.

⁵⁶ Law Library of Congress, *Laws on Children Residing with Parents in Prison*, (Createspace Independent Publishing Platform 2014).

the DRC, and Nigeria.⁵⁷ Often, conditions of detention for these mothers and their children are deplorable. A woman sentenced to death (released in 2021) from the DRC, for example, reported being held in a single cell with three other women and a baby.⁵⁸ A woman sentenced to death in Nigeria reported that, although her baby lived with her in her cell, it was overcrowded and prison officials did not give her extra food to feed the child.⁵⁹ In Sudan, authorities restrained a woman sentenced to death with heavy chains when she was eight months pregnant and caring for a young child, and even during childbirth.⁶⁰

36. When women are incarcerated with their children or when they are pregnant, they often do not receive adequate health care. Veronica Gabriel was incarcerated on death row in Tanzania in 2021 while pregnant and had no access to obstetric care.⁶¹ She carried her pregnancy to term while living in unsanitary and overcrowded conditions and gave birth in the prison toilets. A prison guard found her there after she had given birth. She received no post-partum care, and her baby received no neonatal care.
37. Detained mothers face intense distress when separated from their children, particularly in countries where mothers are not permitted to keep infants with them in prison. Sunny Jacobs, who spent 16 years wrongfully incarcerated on death row in Florida (USA), describes the pain of being separated from her 10-month-old daughter: “I still had milk, so I was expressing the milk . . . into a plastic bowl. . . . I still wanted to be connected to her and be able to feed her when I got home. . . . So I kept expressing the milk into the bowl. . . . I did that for a whole year.”⁶²

Solitary Confinement and Isolation

38. According to the Cornell Center, solitary confinement “uniquely damages and endangers female prisoners.”⁶³ Women in detention are more likely to have underlying mental health conditions or psycho-social disabilities (nearly 70% of women compared to approximately 35% of men), which solitary confinement exacerbates.⁶⁴
39. Authorities often subject people under sentence of death to prolonged solitary confinement, causing severe psychological harm. For instance, Malaysian prisons isolate people on death row for up to 23 hours per day, with extremely limited access to light or outdoor space. In Singapore, Prison Regulation 162(2)(a) requires that “every prisoner awaiting capital punishment must be confined apart from all other prisoners.”

⁵⁷ Eleos Justice and the Cornell Center on the Death Penalty Worldwide, *Silently silenced: State-sanctioned killing of women* (2023), available at: <https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/silently-silenced-state-sanctioned-killing-of-women>.

⁵⁸ ECPM, CPJ, ECPM, AMDH, RAFAH, CSVDH, PRDH, *Towards a death in silence, conditions of detention of people sentenced to death in the Democratic Republic of Congo*, 2019, p107, available at: <https://www.ecpm.org/app/uploads/2022/08/mission-enquete-RDC-GB-2019-300420-WEB.pdf>

⁵⁹ Eleos Justice and the Cornell Center on the death penalty Worldwide, *Silently silenced: State-sanctioned killing of women* (2023), p30, available at: <https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/silently-silenced-state-sanctioned-killing-of-women>

⁶⁰ Marriet Sherwood, *Meriam Ibrahim on Giving Birth in Jail: Something Has Happened to the Baby*, *The Guardian*, July 1, 2014.

⁶¹ *See the urgent appeal on behalf of Ms Veronica Gabriel (Tanzania) to the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Ms Tlaleng Mofokeng*, 2022.

⁶² Shapiro, H, *Creating Coalitions to End Extreme Sentencing for Women*, Video: Panel of women with lived experiences, 2020, Cornell Center on the Death Penalty Worldwide

⁶³ Cornell Center on the Death Penalty Worldwide, *World Day Against the Death Penalty – Gendered Torture on Death Row: A Factsheet*, at 2, Oct. 20, 2022, <https://deathpenaltyworldwide.org/publication/gendered-torture-on-death-row-world-day-2022/>.

⁶⁴ *Ibid.*

Hence the one woman known to be under sentence of death experiences severe isolation, and civil society organizations report she is experiencing mental distress.⁶⁵ Similarly, in the USA, Christa Pike has spent over two decades in solitary confinement on death row, with her mental and physical health deteriorating. In Malawi, the one woman under sentence of death lives in de facto solitary confinement.⁶⁶

40. Prison officials in the USA sometimes use solitary confinement as a form of “protective custody” for transgender persons, and in other cases they use it to punish transgender women after they report rape or other sexual violence.⁶⁷ These transgender women experience “psychological distress due to the isolation, frequent strip searches, and lack of appropriate medical care associated with solitary confinement.”⁶⁸ And when prison officials deploy solitary confinement to “protect” trans people from sexual violence, they “can create a chilling effect on transgender individuals wanting to report rape or sexual violence.”⁶⁹
41. These practices are particularly worrying in the case of women who are survivors of gender-based violence, a life history that can have a severe impact on their mental health. As mentioned above, research suggests that the vast majority of women sentenced to death are survivors of gender-based violence prior to incarceration.

Overcrowded and Unsanitary Conditions

42. Severe overcrowding in cells exacerbates poor living conditions, with little personal space and inadequate ventilation. In Malawi, up to six women are held in small, windowless cement cells where the only point of ventilation “is a small hole above the door leading to the corridor.” These crowded and hot conditions exacerbate premenstrual and menopausal symptoms for many women. Similarly, in the DRC, women are held in cells so overcrowded that they have to take turns sleeping on the bare floor.⁷⁰ Sources familiar with detention conditions in Trinidad and Tobago report that “female inmates do not have access to toilets but have to use buckets instead.”⁷¹ In both Malawi and the DRC, toilets are located outside the cells, so women have to use buckets at

⁶⁵ The Advocates for Human Rights et al., *Singapore’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: The Death Penalty*, 15 Apr. 2024, ¶ 20, <https://www.theadvocatesforhumanrights.org/Res/Singapore%20CEDAW%20DP%20Final.pdf>.

⁶⁶ The Advocates for Human Rights et al., *Malawi’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, 31 Jan. 2022, ¶ 9, <https://www.theadvocatesforhumanrights.org/Res/Malawi%20CEDAW%20Death%20Penalty%20FINAL.pdf>.

⁶⁷ Cornell Center on the Death Penalty Worldwide, *World Day Against the Death Penalty – Gendered Torture on Death Row: A Factsheet*, at 3, Oct. 20, 2022, <https://deathpenaltyworldwide.org/publication/gendered-torture-on-death-row-world-day-2022/>.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ Shapiro, H, *Creating Coalitions to End Extreme Sentencing for Women*, Video: Panel of women with lived experiences, 2020, Cornell Center on the Death Penalty Worldwide.

⁷¹ The Advocates for Human Rights et al., *Trinidad and Tobago’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Prior to Reporting Relating to the Death Penalty*, 30 Jan. 2023, ¶ 18, <https://www.theadvocatesforhumanrights.org/Res/Trinidad%20and%20Tobago%20CEDAW%20LOIPR%20DP%20FINAL.pdf>.

night.⁷² Women explain that this setup can be particularly challenging when they are menstruating.⁷³

⁷² Penal Reform International and Cornell Center on the Death Penalty Worldwide, *A Factsheet on Prison Conditions for Women Facing the Death Penalty* (2018), 3; Carole Berrih and Lievin Ngondji, *Towards a Silent Death: Conditions of Detention of People Sentenced to Death in the Democratic Republic of the Congo*, (Ensemble Contre la Peine de Mort 2019), 105.

⁷³ *Ibid.*