



**Response to the Call for Inputs  
for the  
Report of the Secretary-General to the Human Rights Council  
On the question of the death penalty**

**Submitted by The Advocates for Human Rights**  
a non-governmental organization in special consultative status with ECOSOC since 1996

**Witness to Innocence**  
and  
**The World Coalition Against the Death Penalty**

for the 60th Session of the Human Rights Council

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. 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 publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**Witness to Innocence** (WTI) is the only national organization in the United States composed of and led by exonerated death row survivors and their family members. The mission of WTI is to abolish the death penalty by empowering exonerated death row survivors and their loved ones to become effective leaders in the abolition movement. WTI actively challenges political leaders and the public to grapple with the reality of a fatally flawed criminal justice system that sends innocent people to death row. WTI also supports death row survivors and their loved ones as they confront the challenges of life after exoneration, providing social work and peer support services. WTI was founded 2003 by Sister Helen Prejean, internationally renowned anti-death penalty activist, author, and Nobel Prize nominee, and Ray Krone, the 100th person exonerated from death row in the United States. WTI began its program operation under the administrative and fiscal sponsorship of Sister Helen Prejean's Moratorium Campaign Education Fund. Two years later WTI moved to Philadelphia, Pennsylvania and launched their first visible national organizing campaign in September 2005. WTI has since become one of the most powerful and unique anti-death penalty organizations in the United States. WTI exoneree members have played an essential role in the abolition movement by sharing their stories with millions of people around the country and around

the world. WTI has educated tens of thousands of Americans through speaking events at colleges, universities, professional associations, academic conferences, law schools, faith communities, K-12 schools, and civic groups. WTI has testified before state legislatures, met with government officials and world leaders, and reached tens of millions of people worldwide through the media. WTI has shifted public opinion on the death penalty, playing an integral role in successful repeal campaigns in states across the country.

**The World Coalition Against the Death Penalty** is a membership-based global network committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate 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. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

## EXECUTIVE SUMMARY

1. Miscarriages of justice in death penalty cases confirm that the death penalty does not make society safer. When criminal legal systems dedicate time and resources toward wrongful convictions and death sentences, they squander resources that they should be using to conduct fair and thorough investigations, uphold the right to a fair trial, address the underlying causes of crime, and provide support to crime victims. Miscarriages of justice are not typically the results of “simple human error.” Rather, evidence demonstrates that official misconduct pervades cases that result in wrongful death sentences. Hence, efforts to reform procedures or improve reliance on scientific evidence will not address the root causes of miscarriages of justice. Abolition of the death penalty is the only way to prevent this arbitrary deprivation of life.
2. Exoneration does not erase the grave human rights violations that people who have wrongfully been sentenced to death experience. Moreover, exonerees continue to experience human rights violations after exoneration. Abolition of the death penalty will not prevent miscarriages of justice, but it will mitigate the unnecessary and extreme psychological and physical toll on survivors. In the interim, criminal legal systems must step up efforts to provide full remedies to people who survive death row and are exonerated.

### **I. Death row exonerations demonstrate the urgency of preventing miscarriages of justice.**

3. The Death Penalty Information Center’s Innocence Database lists 200 people who had been sentenced to death and who have subsequently been exonerated since 1973 in the United States.<sup>1</sup> The rate of exonerations is increasing; up until 1999, there was an average of 3.03 exonerations per year, but over the period of 2000 to 2020, there was an average of 4.29 exonerations per year.<sup>2</sup> The error rate is high; for every 8.3 executions in the United States, one person is exonerated from death row.<sup>3</sup>
4. Death row exonerations confirm that the usual justifications for the death penalty are mere pretext. Witness to Innocence, an organization led by and supporting exonerated death row survivors, recently proclaimed in a statement endorsed by more than 40 other organizations around the world: “The death penalty did not make us safer, nor did it make the victims of the crimes for which we were wrongfully convicted, their loved ones, or communities safer.”<sup>4</sup>
5. One fundamental problem that exacerbates miscarriages of justice in the United States is that the appeals process in death penalty cases “is mainly focused on legal errors and not

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<sup>1</sup> Innocence Database, Death Penalty Information Center, <https://deathpenaltyinfo.org/facts-and-research/data/innocence>.

<sup>2</sup> Innocence By the Numbers, Death Penalty Information Center, <https://deathpenaltyinfo.org/policy-issues/policy/innocence-by-the-numbers>.

<sup>3</sup> Death Penalty Information Center, *DPIC Special Report: The Innocence Epidemic*, 2021, at 3, <https://dpic-cdn.org/production/documents/pdf/The-Innocence-Epidemic.pdf?dm=1683576587>.

<sup>4</sup> *The Death Penalty Does Not Make Us Safer: Witness to Innocence Responds to President Trump’s Executive Order on the Death Penalty, and Organizations from throughout the US and the World Sign-on in Solidarity*, Witness to Innocence, Jan. 2025, <https://www.witnesstoinnocence.org/single-post/the-death-penalty-does-not-make-us-safer>.

on factual determinations.”<sup>5</sup> As a result, exoneration figures likely understate the number of capital cases in which a person was sentenced to death for a crime they did not commit. And many official exonerations—particularly exonerations decades after the initial death sentence—occur not through the ordinary judicial appeals process, but as the result of subsequent investigations by conviction review units, conviction integrity units, or pro bono clinics.<sup>6</sup>

6. Moreover, exoneration figures exclude people who may be innocent and whose convictions have been overturned, but who subsequently plead guilty or no-contest to a lesser charge, obtaining immediate release without risking another trial (and continued incarceration due to pretrial detention) and potentially a lengthy prison term or death sentence.<sup>7</sup> In some cases, prosecutors offer these plea deals “as a face-saving device” so that they do not need to “admit wrongdoing or that mistakes were made,” or so they “can escape liability for wrongful prosecution or wrongful imprisonment,” or “insulate the state from paying compensation.”<sup>8</sup>
7. Exoneration figures also exclude people who had their death sentences commuted because authorities had doubts about their guilt,<sup>9</sup> as well as people with innocence claims that had not been adjudicated before their deaths.<sup>10</sup> And Witness to Innocence has identified more than 20 people who have been executed despite strong claims of innocence.<sup>11</sup>
8. In 2021, the Death Penalty Information Center issued a report on “the Innocence Epidemic,” demonstrating that most wrongful convictions and death sentences are not mere mistakes, but that wrongful death sentences “are overwhelmingly the product of police or prosecutorial misconduct or the presentation of knowingly false testimony. More likely than not, they involve a combination of the two.”<sup>12</sup> The report’s data “raise serious questions as to whether the criminal legal system has the capacity or the will to institute reforms to prevent wrongful capital convictions. For while eyewitness and interrogation procedures, jury instructions and scientific evidence can be improved, no procedure or scientific advance can eliminate intentional misconduct,” which characterizes more than 80% of the 185 exonerations DPIC examined.<sup>13</sup> 82.7% of cases involved either official misconduct or perjury/false accusations, while 54.1% involved both.<sup>14</sup> Other contributing factors include false or misleading forensic evidence (31.9% of exonerations), mistaken witness identifications (20%), false or fabricated confessions (16.2%), insufficient evidence (9.2%), and inadequate legal representation (at least 25.4%).<sup>15</sup> DNA evidence has

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<sup>5</sup> Policy: Innocence, Death Penalty Information Center, <https://deathpenaltyinfo.org/policy-issues/policy/innocence>.

<sup>6</sup> DPIC, *The Innocence Epidemic*, *supra* note 3, at 22.

<sup>7</sup> Partial Innocence—Sentence Reduced, Death Penalty Information Center, <https://deathpenaltyinfo.org/policy-issues/policy/innocence/partial-innocence>.

<sup>8</sup> DPIC, *The Innocence Epidemic*, *supra* note 3, at 28.

<sup>9</sup> Possible Innocence—Sentence Commuted, Death Penalty Information Center, <https://deathpenaltyinfo.org/policy-issues/policy/innocence/possible-innocence-sentence-commuted>.

<sup>10</sup> DPIC, *The Innocence Epidemic*, *supra* note 3, at 28-29.

<sup>11</sup> Witness to Innocence, Active Cases, <https://www.witnesstoinnocence.org/active-cases>.

<sup>12</sup> DPIC, *The Innocence Epidemic*, *supra* note 3, at 3.

<sup>13</sup> *Id.* at 17.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

been an exonerating factor in just 15.1% of cases.<sup>16</sup> Just 21.6% of exonerations involved a single isolated error, while 40.5% of exonerations involved three or more contributing factors.<sup>17</sup>

9. DPIC puts it bluntly: “Wrongful capital convictions are not race neutral.”<sup>18</sup> Black people make up 41.60% of the death row population but 53.51% of exonerations.<sup>19</sup> Official misconduct is more frequently a factor in cases involving Black or Latinx defendants.<sup>20</sup> 58.2% of exonerations of white defendants involved official misconduct, while 68.8% of exonerations of Latinx defendants and 78.8% of exonerations of Black defendants involved official misconduct.<sup>21</sup> Similarly, false accusations or perjury contributed to wrongful death sentences of 93.8% of Latinx exonerees and 70.7% of Black exonerees, compared with 67.6% of exonerees overall.<sup>22</sup>
10. Official misconduct also correlates with longer periods of time between conviction and exoneration. Just 55.6% of exonerations that took 10 years or less involved official misconduct, with that figure rising to 81.1% for exonerations taking 11-20 years, 88% for exonerations taking 21-30 years, and 100% for exonerations taking more than 30 years.<sup>23</sup> The DPIC report also found that “[e]xoneration took significantly longer for Black defendants”—an average of 4.3 years longer—than their white counterparts.<sup>24</sup>
11. The DPIC report highlighted the arbitrariness of wrongful convictions. 20% of death row exonerations arose in just five counties in five different states, each of which had a history of police and prosecutorial misconduct coupled with “historically excessive pursuit of the death penalty.”<sup>25</sup>
12. A significant proportion of exonerations arose out of trial procedures that deviated from international human rights standards calling for heightened fair trial protections for people at risk of being sentenced to death. In some jurisdictions, a judge may “override” a jury’s sentencing decision, and in some jurisdictions, the jury’s sentencing decision need not be unanimous. DPIC reported that “[m]ore than 15 percent of all death-row exonerations in the U.S. are in cases in which trial judges overruled jury recommendations for life or imposed the death penalty based on non-unanimous jury votes for death.”<sup>26</sup>

## **II. Human rights violations persist after exoneration.**

13. When the criminal legal system corrects a miscarriage of justice, it does not erase the damage of wrongful death sentences. In that sense, a death sentence is always irreversible. Between 2011 and 2020, the average time between an exoneree’s initial death sentence and

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<sup>16</sup> *Id.* at 26.

<sup>17</sup> *Id.* at 17.

<sup>18</sup> *Id.* at 19.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Id.* at 4.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Id.* at 5.

<sup>25</sup> *Id.* at 4, 8.

<sup>26</sup> *Id.* at 5.

exoneration was 22.6 years.<sup>27</sup> An exoneration cannot restore the years lost on death row or repair the physical, psychological, and social toll that a wrongful conviction and death sentence impose on a person. Witness to Innocence explains: “The agony of prison life, complete loss of freedom and time, years of separation from friends and family, and past inability to establish a career are all factors that continue to impact exonerees.”<sup>28</sup>

14. Further, miscarriages of justice continue after exoneration. Witness to Innocence explains that “exonerees are often released with no money, housing, transportation, health services or insurance, and a criminal record that is sometimes not cleared regardless of innocence.”<sup>29</sup> The coauthors recently submitted a response to a call for input regarding an OHCHR comprehensive study on human rights and the social reintegration of persons released from detention.<sup>30</sup> That report outlines human rights violations that death row exonerees in the United States experience after exoneration, including barriers to accessing compensation and other human rights violations.

### III. Suggested recommendations

15. The coauthors suggest:

- Expand support for death row exonerees to speak with lawmakers and the general public to encourage abolition of the death penalty.
- Ensure that any criminal legal system retaining the death penalty complies with the 1984 UN Safeguards guaranteeing protection of the rights of those facing the death penalty, particularly regarding the right to a fair trial and the requirement that the death penalty be imposed, if at all, “only when the guilt of the person charged is based on clear and convincing evidence leaving no room for an alternative explanation of the facts.” Procedures allowing non-unanimous jury verdicts of death and judicial override of jury verdicts of sentences other than death violate these safeguards.
- Expand support and technical assistance for conviction review/integrity units, prioritizing death penalty cases.
- Ensure that people exonerated from death row receive financial compensation, criminal record relief, safety net benefits such as Social Security and Medicaid, and life skills support.

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<sup>27</sup> *Id.* at 22.

<sup>28</sup> Justice After Exoneration, Witness to Innocence, <https://www.witnesstoinnocence.org/justice-after-exoneration>.

<sup>29</sup> *Ibid.*

<sup>30</sup> The Advocates for Human Rights, Witness to Innocence, and the World Coalition Against the Death Penalty, *Response to the call for input: OHCHR comprehensive study on human rights and the social reintegration of persons released from detention and persons subjected to non-custodial measures, pursuant to Human Rights Council resolution 57/9*, 21 Mar. 2025, available at <https://www.theadvocatesforhumanrights.org/Res/Call%20for%20inputs%20OHCHR%20study%20human%20rights%20&%20reintegration%20of%20persons%20released%20HRC%2057-9%20TAHR%20WTI%20WCADP.pdf>.