

Afghanistan
Stakeholder Report for the United Nations Universal Periodic Review:
The Death Penalty

Submitted by The Advocates for Human Rights,
a nongovernmental organization in special consultative status
and
The World Coalition Against the Death Penalty

for the 46th Session of the Working Group on the Universal Periodic Review
April - May 2024

Submitted 11 October 2023

Founded in 1983, **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. 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. 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.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. 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. This report addresses Afghanistan's compliance with its international human rights obligations with respect to the death penalty; arbitrary and unlawful detentions; prohibition of torture and cruel, inhuman, or degrading treatment; conditions of detention; and administration of justice and fair trial.
2. Afghanistan has not abolished the death penalty or implemented a moratorium on executions, nor has it limited the application of the death penalty to the "most serious crimes." The people under sentence of death in Afghanistan experience poor detention conditions, including torture. Further, in many cases, death sentences are issued arbitrarily, without due process, and without adherence to formal judicial procedures.
3. This report examines the current state of the death penalty in Afghanistan and recommends that Afghanistan abolish the death penalty and ratify the Second Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR). This report further recommends, in the meantime, that Afghanistan: (1) strengthen the rule of law; (2) enact constitutional and legislative provisions directly pertaining to the death penalty, such as its application to juveniles, and whether the death penalty is limited to the "most serious crimes"; (3) release data and statistics and provide transparency on the number of death sentences issued; (4) investigate use of force by law enforcement and prison staff; (5) cease the use of torture and cruel, inhuman, or degrading treatment and punishment, including in interrogation, detention, and the method of execution; (6) improve conditions of detention; (7) administer justice and provide fair trials; (8) promptly investigate and hold to account those accused of torture; (9) ensure the right to food, safe drinking water and sanitation in detention; (10) ensure medical access and treatment in detention; and (11) end gender-based violence in detention.

I. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

A1 Scope of international obligations; A12 Acceptance of international norms

Status of Implementation: Partially Accepted, Not Implemented

4. In the Third-Cycle Universal Periodic Review (UPR), Afghanistan received nine recommendations to ratify or consider ratifying the Second Optional Protocol to the ICCPR.¹ Afghanistan noted all these recommendations. In addition, Afghanistan supported a recommendation to intensify measures to continue integrating the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).² To date, the current *de facto* government has not implemented any of these recommendations.
5. As of 2021, the previous government of Afghanistan had not maintained, designated, or established a national torture preventive mechanism as established in its obligation under the Optional Protocol to CAT, nor had it ratified the Second Optional Protocol to the ICCPR.³ The current *de facto* government has acted similarly.

6. As of June 2023, the legal status of former laws remains unknown.⁴ The Taliban-controlled *de facto* government has not officially endorsed or rescinded any laws from the previous government, except to suspend the 2004 Constitution.⁵ *De facto* authorities have stated on numerous occasions that *shari'a* law controls and, if international human rights law and Islamic law conflict, that the government is “obliged to follow the Islamic law.”⁶
7. Afghanistan cannot unbind the country from its obligations with the international system.⁷ As the *de facto* governmental authorities, the Taliban remain bound to any international human rights obligations Afghanistan is treaty to.⁸ Human rights violations that have been reported or any pressure received from international actors have been met with dismissal from the Taliban, who have claimed that the reports are false, and the situation has improved.⁹

D23 Death penalty

Status of Implementation: Partially Accepted, Not Implemented

8. In the Third-Cycle UPR, Member States made 15 recommendations related to Afghanistan’s use of the death penalty.¹⁰ Afghanistan noted ten of these recommendations, including recommendations to abolish the death penalty, implement a moratorium on the use of capital punishment and reinstate a moratorium on executions, provide statistics on official figures detailing executions and death sentences, and reduce the number of crimes to which the death penalty applied. Afghanistan noted one part of a request to consider an immediate moratorium on executions as a first step towards the abolition of the death penalty. The recommendations that the Government supported were to commute the death sentences of individuals who committed crimes while under the age of 18. To date, the current *de facto* government has not implemented any of the recommendations from the previous cycle.
9. In response to the previous cycle of the UPR, the former Afghan government explained that it had taken steps toward moving from death penalty sentences to long-term imprisonment.¹¹ Commissions and committees formed under the former Attorney General’s office recommended commutations of death penalty sentences in a majority of cases that were reviewed.¹²
10. The 2004 Constitution and the Penal Code both allowed the death penalty, though neither provided for mandatory death sentences.¹³ In total, between December 2001 and August 2021, the former Afghan government executed at least 72 people.¹⁴
11. Under the previous government, reported executions declined after the commission and committee convened. From 2019-2021, there were no reported executions.¹⁵ Yet the number of people known to be under sentence of death in Afghanistan in 2019 was over 538. At the end of 2020, that number was 976.¹⁶
12. Article 170 of the Penal Code listed crimes punishable by death “unless otherwise stipulated in law.”¹⁷ Many of the crimes listed in Article 170, such as gang rape and harming the sovereignty and integrity of Afghanistan, did not meet the “most serious crimes” standard, being crimes involving intentional killing.¹⁸

13. With regard to children, the Penal Code explicitly provided that children or persons under the age of 20 could not be sentenced to death.¹⁹
14. After coming to power, the *de facto* government announced that it will again carry out executions based on its interpretation of *shari'a* law.²⁰
15. *Shari'a* law is based on Islamic law and the rulings of Islamic scholars.²¹ Crimes in *shari'a* law fall under three main types: *hudud*, *qisas*, and *ta'zir*.²² *Hudud* and *qisas* are punishments derived from the Qur'an and Hadith and can be both corporal and capital punishments.²³
16. *Hudud* crimes are crimes against God and receive mandatory punishment as delineated in the Qur'an and Hadith.²⁴ There are six *hudud* offenses: *zina* (adultery and fornication), *riddah* (apostasy), *hirabah* (waging war against God and society), *sariqa* (theft), *shrub al-khamr* (drinking alcohol), *qadhif* (slander/defamation).²⁵ The punishments include the death penalty, stoning and lashing.²⁶
17. If a court construes *zina* as including consensual same-sex sexual activity between adults, lesbian, gay, and bisexual (LGB) Afghans may also be at risk of being sentenced to death.²⁷ The lack of clarity on whether consensual same-sex sexual activity between adults triggers the death penalty creates considerable uncertainty and fear within the underground LGB community. There have been no confirmed executions of people for engaging in consensual same-sex sexual activity since Afghanistan's Third-Cycle review, but it is also common for individuals sentenced to death or executed for same-sex sexual acts to also face unrelated charges.²⁸ Given the lack of reliable information in these cases, it is unknown whether these unrelated charges are factual. It is possible that the inclusion of unrelated charges is meant to associate LGB individuals with other forms of criminality; to send a message that same-sex sexual activity is on par with crimes such as murder, rape, or terrorism; and/or to "avoid or minimise international condemnation."²⁹
18. In 2018, the previous government explicitly criminalized same-sex sexual relations, which became punishable by death.³⁰
19. The *de facto* government has reaffirmed the previous government's criminalization of same-sex relations.³¹ According to an interview with a *de facto* regime judge, for a man who has sex with another man, there are only two possible punishments: stoning or being crushed by a falling wall.³²
20. *Qisas* (retribution in kind) follows the principle of "an eye for an eye" and covers murder or serious cases of intentional bodily harm.³³
21. *Ta'zir* refers to punishments that – unlike *hudud* and *qisas* - are not defined in the Qur'an or Sunnah and are executed under the discretionary power of the judge.³⁴ The majority of instances of corporal punishment fall under this category, although it can also include capital punishment.³⁵
22. The death penalty remains a possible (but not necessarily mandatory) punishment in all three categories, particularly in the offenses of murder, adultery or fornication, apostasy,

and waging war against God.³⁶ *De facto* courts may therefore wield considerable discretion in issuing death sentences for a wide variety of crimes.

23. Given this backdrop, the range of offenses that currently carry the death sentence in Afghanistan still includes crimes that do not meet the threshold of the “most serious” crimes within the meaning of ICCPR Article 6.³⁷
24. There are credible reports of at least 216 people who are currently under judicial death sentences in Afghanistan.³⁸ Afghanistan’s Supreme Court announced in May 2023 that courts across the country had handed down 175 death sentences for murder since the summer of 2021.³⁹ On May 4, 2023, the *de facto* deputy chief justice announced that 37 individuals were sentenced to be stoned to death and four individuals were sentenced to “walls being knocked down on them.”⁴⁰ The announcement did not specify the exact crimes, nationalities, offender ages and gender, and timelines for these death sentences being carried out. It did note, however, that the sentences were not yet confirmed by the supreme leader.⁴¹
25. Taliban forces have already carried out other death sentences. On October 12, 2022, officials took a man, Sirajuddin, and a woman, Salima, into custody in Ghor province, accusing them of adultery.⁴² They scheduled their executions by stoning for the end of that week.⁴³ Shortly after the arrest, Salima was found dead by hanging.⁴⁴ Following his efforts to escape before being stoned, members of the Taliban shot Sirajuddin dead.⁴⁵
26. In December 2022, the *de facto* government conducted its first confirmed public execution since its takeover.⁴⁶ Three courts found the man, Tajmir from Herat province, guilty of murder, and the Taliban’s supreme leader authorized his killing.⁴⁷ Tajmir reportedly confessed to the murder, and the victim’s father conducted the execution in front of hundreds of spectators.⁴⁸
27. The second public execution occurred on June 20, 2023.⁴⁹ Three courts convicted the accused man, Ajmal from Kabul, of the murder of five people.⁵⁰ The execution was authorized by the Taliban’s supreme leader.⁵¹ One of the victims’ sons carried out the execution via assault rifle in Laghman province.⁵²
28. While there are records of only two public executions, there are credible reports of more than 218 extrajudicial killings that were carried out by *de facto* authorities between August 15, 2021, and June 30, 2023.⁵³
29. For example, on February 14, 2023, the governor of Nusay district in Badakhshan, Afghanistan, ordered that a man and a woman accused of adultery be stoned to death.⁵⁴ The stoning took place a day after the two were arrested, without a trial, and both were killed.⁵⁵
30. In addition, in March 2022, credible reports noted that *de facto* authorities in Kunduz province planned to extrajudicially execute four males accused of killing eight polio vaccinators a few weeks prior.⁵⁶ No judicial processes were observed, and at least three of the four accused were under the age of 18.⁵⁷ Officials did not, however, carry out the executions.⁵⁸

D25 Prohibition of torture and cruel, inhuman or degrading treatment; D26 Conditions of detention

Status of Implementation: Accepted, Not Implemented

31. In the Third-Cycle UPR, Afghanistan supported all 12 recommendations regarding the prohibition of torture, including recommendations to prohibit torture; to investigate all allegations of torture, corporal punishment, ill and unlawful treatment; and to take effective measures to ensure the continued integration of the CAT into domestic legislation.⁵⁹ Additionally, Poland recommended that Afghanistan “improve the conditions of detention,” which Afghanistan supported.⁶⁰ The current *de facto* government has not implemented any of these recommendations to date.
32. Afghanistan is a state party to the ICCPR and the CAT, which forbid torture or other cruel, inhuman, or degrading punishment.⁶¹ Article 29 of the 2004 Constitution prohibited “punishment contrary to human dignity.”⁶²
33. The United National Assistance Mission in Afghanistan (UNAMA) found the percentage of detainees subject to torture in detention in decreased from 39 percent in 2017 and 2018 to 32 percent in 2019.⁶³
34. Between January 2019 and March 2020, UNAMA and the Office of the High Commissioner Human Rights (OHCHR) recorded 1,458 instances of detention.⁶⁴ During time period, 30 percent of those individuals housed in government-run prisons reported abuse and mistreatment.⁶⁵
35. As of February 2021, most people detained did not have a lawyer prior to questioning. Authorities also did not inform them of their rights, nor did they provide them with medical examinations.⁶⁶
36. With the regime change, the *de facto* government released all prisoners that were being held by the previous government.⁶⁷ Since then, *de facto* authorities took over 41 prisons.⁶⁸ As of June 2023, authorities are detaining over 15,000 individuals.⁶⁹ Reportedly, 1,100 of those people in detention are women.⁷⁰ Recent reports by local media, however, indicate that the number of women detained is likely even higher.⁷¹
37. Currently, there appear to be no nationwide legal standards governing detention sentences, and no mechanism to challenge them.⁷² Many defense lawyers have reported difficulties accessing detention facilities and say *de facto* judges often sideline them during court proceedings.⁷³
38. There appears to be no reports of separate prisons or treatment for those sentenced to death under the *de facto* authorities. Therefore, treatment of people deprived of their liberty and the conditions under which they are held likely represent the treatment of all people in prisons, including those who are subject to death sentences.
39. Investigations have illustrated that people in detention are held in two types of facilities: public prisons controlled by the Ministry of Interior and special prisons overseen by the

General Directorate of Information (GDI). It is in these latter prisons where *de facto* authorities use the most severe forms of torture.⁷⁴ Taliban forces typically hold people detained for their political beliefs, individuals accused of collaborating with anti-Taliban forces, activists, and protesters in GDI prisons, while they detain those arrested for criminal offenses in public prisons under the Ministry of Interior.⁷⁵

40. In November 2022, the supreme leader of the Taliban reenacted corporal punishment in accordance with *shari'a* law.⁷⁶ Since then, there have been reports of at least 144 instances of torture and ill treatment, including in detention.⁷⁷
41. The *de facto* government issued a “Code of Conduct on system reform relating to prisoners” that reportedly prohibits the use of torture “at any point throughout arrest, transfer or detention” and provides punishments for those who do torture.⁷⁸ Despite this proclamation, however, individuals in detention have reported authorities “kicking, punching, slapping, beatings with cables and pipes, and the use of mobile electric shock devices” against them.⁷⁹
42. From January 2022 to July 31, 2023, UNAMA documented over 466 instances of torture and abuse in custody, including hundreds of instances of both severe physical and mental abuse.⁸⁰ It further documented nineteen instances of solitary confinement.⁸¹ Approximately 18 individuals have died while in custody.⁸² UNAMA opines that the extent of torture and ill-treatment in custody is likely underreported.⁸³
43. In one local April 2023 report, a man with the pseudonym Asadullah described prison officials hanging him upside down, electrocuting him, choking him, and subjecting him to other forms of torture at a prison in Balkh province.⁸⁴ Law enforcement had charged Asadullah with possession of illegal weapons.
44. In September of 2021, a man named H. Hamza recounted prison officials tying him to a chair by his hands and feet, beating him, and shocking him with electricity during his time in Bagram prison.⁸⁵
45. Due to the ongoing humanitarian crisis, prison conditions, including access to food, clothes, hygiene, and other necessities, have deteriorated.⁸⁶
46. Conditions for women in detention are worse. In three northern provinces, investigations exposed torture and sexual assault during detention, in addition to the poor general conditions described above.⁸⁷ In addition, almost all women in prisons in Balkh province had endured torture, sexual abuse, and harsh treatment from the Taliban during interrogation.⁸⁸ *De facto* authorities failed to independently and credibly investigate these allegations, and they have not held anyone accountable for engaging in these alleged acts of torture.⁸⁹
47. Afghanistan does not specifically publish information about the number of women who have been sentenced to death. As noted in paragraph 24, however, courts have sentenced 37 individuals to death by stoning, a sentence that disproportionately affects women accused of so-called morality crimes.⁹⁰ Moreover, as discussed in paragraphs 25 and 29,

de facto authorities sentenced at least two women to death, one of whom was stoned, and the other who was sentenced to be stoned.

48. In addition, women suffer disproportionately from crimes perpetrated against them in detention. According to local reports, as of May 2023, there were 90 female prisoners in Jowzjan, Faryab, and Samangan provinces, the majority of whom are imprisoned for moral corruption (adultery or fornication), theft, fraud, and elopement.⁹¹ As mentioned in paragraph 16 above, some of these crimes are punishable by death.
49. As discussed in paragraph 46, women in detention frequently experience torture, sexual abuse, sexual exploitation, and harsh treatment at the hands of prison officials. Specifically, younger female prisoners are targeted for sexual assault, often by multiple men at the once.⁹² According to one report, guards or other *de facto* authorities force girls and young women to have sex with them.⁹³
50. Of the 90 female detainees included in the report discussed in paragraph 46, 16 have become pregnant due to repeated sexual assault and Taliban authorities forced the women to terminate their pregnancies.⁹⁴ In addition, at least four women detained in a prison in Samangan province fell seriously ill due to repeated sexual assaults. There are credible reports that the Taliban ultimately executed these four women.⁹⁵

D51 Administration of justice and fair trial

Status of Implementation: Accepted, Not Implemented

51. In the Third-Cycle UPR, Afghanistan accepted seven recommendations in the effort to enhance guarantees of due process and towards judicial reform, including recommendations to work towards the establishment of a fair and independent judiciary; to enforce existing legal prohibitions on the use of coerced confessions; to improve women's access to justice; to provide training to judicial officers, prosecutors, law enforcement, and military officers on international human rights standards; and to end impunity for human rights violations.⁹⁶ Although the previous government of Afghanistan accepted the previous cycle's recommendations, the *de facto* government has not implemented any of these changes to date.
52. Under the previous government, a death sentence could be imposed by a single judge as a result of a trial in a district criminal court within any of the districts in the country.⁹⁷ There were no jury trials, though appeals were permitted in all criminal cases, with both the prosecution and defense being able to appeal.⁹⁸ Initially, an intermediate provincial appellate court would hear the case *de novo* on all issues (fact and law), then the Supreme Court of Afghanistan conducted a final review.⁹⁹ A sentence of death and/or any decision regarding capital punishment required presidential approval.¹⁰⁰ If the president granted their approval, execution followed, and if they dismissed the sentence, the case returned for re-sentencing to the Supreme Court.¹⁰¹
53. Between 2017 and 2019, legal representation became increasingly more common in Afghanistan. Seventy-nine percent of individuals arrested reported being represented by a defense attorney, compared to the 51 percent of people arrested prior to 2017.¹⁰²

54. The previous government had undertaken efforts to further the scope of legal counsel for individuals in the criminal justice system. The Ministry of Justice of the Islamic Republic of Afghanistan collaborated with the International Legal Foundation to develop a comprehensive legal aid system throughout the country.¹⁰³ The accelerated program was scheduled to take place between 2019 to 2022.¹⁰⁴
55. In 2018, before the previous government fell, the Taliban issued a directive on the “Structure and Responsibility of the Court of the Islamic Republic of Afghanistan” for use in the territories it controlled.¹⁰⁵ One part addressed the organizational structure of the courts, and the other part addressed their operations.¹⁰⁶ It is unclear how widely this decree has been circulated or how *de facto* authorities are currently implementing it.¹⁰⁷
56. Since the *de facto* government came to power, legal ambiguity is widespread.¹⁰⁸ Judicial hearings are unstandardized, and courts issue verdicts without trials.¹⁰⁹ Courts also issue verdicts *in absentia* and without the presence of defense lawyers.¹¹⁰
57. For example, in August 2021, the Taliban issued a death sentence for the brother of an Afghan translator on claims he had helped U.S. troops and provided security to his brother.¹¹¹ Upon ignoring a subpoena from the *de facto* authorities, the authorities found him guilty *in absentia* and sentenced him to death.¹¹²
58. Despite various Taliban and Supreme Court directives, there does not appear to be any specific or consistent process for the appointment of judges, including training or education requirements.¹¹³
59. Under the *de facto* regime, each court (or division within a court) usually comprises a judge, a *mufti* (Muslim legal expert), and a clerk.¹¹⁴ Judges of the prior regime have been removed.¹¹⁵
60. Reports have noted that people deprived of their liberty do not currently have access to legal counsel, and that *de facto* authorities had arrested many people for alleged crimes – including relatively serious ones – without providing any due process.¹¹⁶ From January 2022 to July 31, 2023, there were widespread reports of violations of the rights of due process for people in detention. During this period, outside of a single individual case, there were no instances where authorities had rightfully informed any of the individuals interviewed by UNAMA of their fundamental rights upon detention, where a lawyer was present during their interrogations, or where authorities promptly brought them before a *de facto* court or judge.¹¹⁷
61. According to reports, police and other security agencies detain, sentence, and punish people alleged to have committed crimes within the same day.¹¹⁸

II. RECOMMENDATIONS

62. The co-authors of this report suggest the following recommendations for the Government of Afghanistan:

- Abolish the death penalty and commute the sentences of all individuals currently under sentence of death with a penalty that is fair, proportionate, and consistent with international human rights standards.
- Clarify the status of all laws enacted by the previous Afghan government, including those related to the death penalty.
- Institute an official moratorium on executions, at least until such laws can be clarified.
- Ratify the Second Optional Protocol to the ICCPR and the Optional Protocol to CAT.
- Limit the death penalty to the “most serious” crimes, as specified under Article 6(2) of the ICCPR.
- Ensure that no person is sentenced to death for engaging in same-sex sexual conduct between consenting adults and immediately commute the sentence of any person under sentence of death for such a crime.
- Remove all prohibitions against consensual same-sex sexual activity between adults from the jurisdiction of traditional, Sharia, or other parallel criminal systems and prosecute such charges only under codified criminal law.
- Repeal all laws that criminalize consensual same-sex sexual activity between adults. Commute the sentences of all individuals convicted of these crimes; release any individual detained under these laws; instruct prosecutors and police to cease prosecutions and arrests on these charges.
- Prohibit the use of torture during interrogations.
- Prohibit judges from considering as evidence any statements obtained through coercion, torture, or ill-treatment, except when offered to prove the crime of torture, and require judges to order the prompt, independent, and effective investigation of any such allegations raised by the defense.
- Establish a standardized court system that applies across all provinces of Afghanistan, with clear, speedy, and predictable judicial processes.
- Abolish the death penalty for people who were under the age of 18 at the time of the alleged crime, and immediately commute the death sentences of any person not proven to have been at least 18 years old at the time of the alleged offense. If there is any uncertainty as to the individual’s age at the time of the crime, treat the individual as if they were under the age of 18.
- Promptly and thoroughly investigate sentences handed down through processes other than official judicial proceedings, and prosecute those responsible for executing such sentences, prioritizing allegations raised by persons who are charged with crimes that are eligible for the death penalty.
- On at least an annual basis, publish data on the numbers of detention statuses, death sentences, and executions, disaggregated by nationality, sex, crime of conviction, date of arrest, date of sentencing, sentencing authority, relationship to any victim, relationship to any codefendant, current location, and status of any appeals or mercy proceedings.
- Ensure access to food, water, hygiene, and medical care for those detained.

- Eliminate practice of torture, abuse, and mistreatment of those detained.
- Ensure that all prisons and detention centers abide by the Nelson Mandela and Bangkok Rules.
- Ensure that all prison authorities adopt gender-sensitive policies in relation to women's detention, ensuring women's safety and security pre-trial, during admission to any detention facility, and while incarcerated.
- Ensure that any woman or girl who has experienced gender-based violence while in detention receives timely, gender-sensitive and trauma-informed medical care, including psychological care.
- Promptly and thoroughly investigate all allegations of torture and sexual assault of people in detention, and prosecute all those responsible for committing and ordering those crimes.
- Increase access to representation by defense counsel for those detained.
- Ensure people in detention have knowledge of their human rights within criminal procedure, prioritizing such knowledge for persons who are charged with crimes that are eligible for the death penalty
- Create a merit -based judicial system where officials are hired rather than appointed.
- Set minimum legal education standards for judicial officials and provide comprehensive training to all judicial officers, prioritizing those responsible for sentencing in capital cases.
- Provide all judges with sentencing authority with comprehensive gender-sensitization training, including with respect to women and girls in conflict with the law who have experienced gender-based violence, focusing on gender-based discrimination, domestic violence, and tactics of coercive control that may lead women to commit death-eligible offenses.

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Afghanistan*, (April 3, 2019), U.N. Doc. A/HRC/41/5, ¶ 136.12 Establish a moratorium on executions as a first step towards ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Ireland); Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights ¹/₄; ¶ 136.13 Abolish the death penalty and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Uruguay); ¶ 136.14 Implement a moratorium on the use of capital punishment and sign the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Portugal); ¶ 136.76 Reinstate its moratorium on executions, remove the death penalty from all criminal laws and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Australia).

² Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Afghanistan*, (3 April 2019), U.N. Doc. A/HRC/41/5, ¶ 136.87 Intensify measures to improve the work of the penitentiary system, and continue integrating the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into national legislation (Russian Federation).

³ UNAMA Human Rights, *Afghanistan Preventing Torture and Upholding the Rights of Detainees in Afghanistan: A Factor for Peace* (2021), at 7. Also available online at <https://www.ohchr.org/sites/default/files/Documents/Countries/AF/2021report/2021-Torture-Public-Report.pdf>.

⁴ UNAMA Human Rights, *Corporal Punishment and the Death Penalty in Afghanistan* (May 2023), at 10. Also available online at <https://unama.unmissions.org/corporal-punishment-and-death-penalty-afghanistan/>.

⁵ UNAMA Human Rights, *Corporal Punishment and the Death Penalty in Afghanistan* (May 2023), at 10. Also available online at <https://unama.unmissions.org/corporal-punishment-and-death-penalty-afghanistan/>.

⁶ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Afghanistan*, (15 June 2023), U.N. Doc. A/HRC/53/21; *see also* United Nations General Assembly Security Council, *The situation in Afghanistan and its implications for international peace and security*, (June 20, 2023), U.N. Doc. A/77/914-S/2023/458, at 8. Also available online at <https://reliefweb.int/attachments/9a516087-53b5-4df0-9c12-43f63dc96456/N2317030.pdf>.

⁷ United Nations Human Rights Office of The High Commissioner, *High Commissioner Tells the Human Rights Council that Human Rights in Afghanistan Are in a State of Collapse, and that He Is Saddened by the Continued and Widespread Deterioration of Human Rights in Nicaragua* (September 12, 2023). Also available online at <https://www.ohchr.org/en/news/2023/09/high-commissioner-tells-human-rights-council-human-rights-afghanistan-are-state>

⁸ United Nations General Assembly Security Council, *The situation in Afghanistan and its implications for international peace and security*, (September 2, 2021), U.N. Doc. A/76/328-S/2021/759. Also available online at https://digitallibrary.un.org/record/3940834/files/A_76_328--S_2021_759-EN.pdf?ln=en.

⁹ Tolo News, *Kabul Rejects HRW Report on Human Rights Violations*, (Jun 10, 2022). Also available online at <https://tolonews.com/afghanistan-178416>.

¹⁰ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Afghanistan*, (3 April 2019), U.N. Doc. A/HRC/41/5, ¶ 136.71 Commute all existing death sentences for offenders who committed the crime for which they were sentenced when under the age of 18 (Belgium); ¶ 136.73 Commute all death sentences for offenders who committed crimes while under the age of 18 (Portugal); ¶ 136.75 Consider instituting a moratorium on executions and commuting death sentences of minors (Albania); ¶ 136.82 Consider an immediate moratorium on executions as a first step towards the abolition of the death sentence, and commute all existing death sentences for persons below 18 years of age at the time of the commission of the crime (Republic of Moldova); ¶ 136.13 Abolish the death penalty and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Uruguay); ¶ 136.14 Implement a moratorium on the use of capital punishment and sign the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Portugal); ¶ 136.70 Deepen its measures in order to repeal the death penalty in its national legislation (Argentina); ¶ 136.74 Implement a moratorium on executions, aiming at the complete abolition of the death sentence, and commute existing sentences of capital punishment to other forms (Sweden); ¶ 136.76 Reinstate its moratorium on executions, remove the death penalty from all criminal laws and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Australia); ¶ 136.77 Introduce a moratorium as a first step towards the full abolition of the death penalty (Austria); ¶ 136.78 Establish a moratorium on the death penalty with a view to abolishing it, and immediately reduce the number of crimes subject to the death penalty (France); ¶ 136.79 Provide official figures regarding death sentences and executions, and consider adopting a moratorium on the death penalty (Italy); ¶ 136.80 Establish a moratorium on executions with a view to the complete abolishment of the death penalty, and commute all existing death sentences (Liechtenstein); ¶ 136.81 Further reduce the number of crimes carrying capital punishment, and consider the re-establishment of the moratorium on the death penalty (Lithuania).

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- ¹⁵ Amnesty International, *Death penalty in 2019: Facts and figures*, (April 2020). Also available online at <https://www.amnesty.org/en/latest/news/2020/04/death-penalty-in-2019-facts-and-figures/#:~:text=Global%20death%20penalty%20figures,in%20at%20least%20a%20decade;https://www.amnesty.org/en/documents/act50/3760/2021/en/>
- ¹⁶ Amnesty International, *Death sentences and execution 2019*, (April 2020), at 21. Also available online at <https://www.amnesty.org/en/documents/act50/1847/2020/en/>
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⁵⁵ UNAMA Human Rights, *Corporal Punishment and the Death Penalty in Afghanistan* (May 2023), at 18. Also available online at <https://unama.unmissions.org/corporal-punishment-and-death-penalty-afghanistan/>.

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⁵⁸ UNAMA Human Rights, *Corporal Punishment and the Death Penalty in Afghanistan* (May 2023), at 18. Also available online at <https://unama.unmissions.org/corporal-punishment-and-death-penalty-afghanistan/>.

⁵⁹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Afghanistan*, (3 April 2019), U.N. Doc. A/HRC/41/5, ¶ 136.83 Ensure thorough implementation of Afghanistan's anti-torture law (Slovakia); ¶ 136.84 Take effective measures to strictly enforce the national prohibition of torture and to ensure that no person is subjected to unlawful treatment, and that all allegations of such treatment are duly investigated by the proper criminal authorities and perpetrators are held to account (Sweden); ¶ 136.85 Continue its fight against and the prevention of torture and ill-treatment, with special emphasis on human rights defenders (Spain); ¶ 136.86 Build on achievements in the prevention of torture by prohibiting all forms of corporal punishment (Ukraine); ¶ 136.87 Intensify measures to improve the work of the penitentiary system, and continue integrating the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into national legislation (Russian Federation); ¶ 136.89 Prohibit all forms of corporal punishment (Portugal); ¶ 136.99 Promptly investigate all allegations of torture of detainees, enforced disappearances and summary executions, and prosecute those responsible (Germany); ¶ 136.103 Promptly and thoroughly investigate all allegations of torture of detainees, and prosecute all those responsible for committing and ordering those crimes (Hungary); ¶ 136.104 Promptly and thoroughly investigate all allegations of torture of detainees, enforced disappearances and summary executions, and

prosecute those responsible in line with international human rights standards (Norway); ¶ 136.236 Explicitly prohibit corporal punishment of children in all settings (Montenegro).

⁶⁰ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Afghanistan*, (3 April 2019), U.N. Doc. A/HRC/41/5, ¶ 136.88 Improve the conditions of detention (Poland).

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⁹⁶ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Afghanistan*, (3 April 2019), U.N. Doc. A/HRC/41/5, ¶ 136.49 Strengthen human rights training for judges, prosecutors and law enforcement officials (Qatar); ¶ 136.50 Strengthen efforts to ensure that all officers and soldiers of the Afghan national security and defence forces, as well as the officials in the judiciary and law enforcement, are fully trained on international humanitarian and human rights law (Slovenia); ¶ 136.112 Implement effective measures to fight impunity, including through continued and full cooperation with the International Criminal Court (Netherlands); ¶ 136.216 Continue measures to improve the situation of women, in particular with regard to their access to justice and participation in State administration and decision-making institutions (Serbia); ¶ 136.106 Strengthen the position and the number of women in the security sector, and implement awareness campaigns on human rights, especially with regard to women's access to justice (Netherlands); ¶ 136.98 Work towards the establishment of a fair and independent judiciary system that is equipped with adequate resources (Germany); ¶ 136.100 Further enforce existing legal prohibitions on the use of coerced confessions in judicial proceedings, and take appropriate disciplinary action against prosecutors and judges who permit the use of such information (Germany).

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