



CAPITAL PUNISHMENT
JUSTICE PROJECT
Ending the death penalty.



ANTI
DEATH
PENALTY
ASIA
NETWORK

REPRIEVE



Cornell Law School
Cornell Center on the
Death Penalty Worldwide

From: The World Coalition Against the Death Penalty (WCADP), The Advocates for Human Rights (TAHR), the Cornell Center on the Death Penalty Worldwide (CCDPW), the Anti-Death Penalty Asia Network (ADPAN), Capital Punishment Justice Project (CPJP)

Date: April 4, 2025

Re: Call for inputs for the report of the Secretary-General to the Human Rights Council on the question of the death penalty, pursuant to resolution 54/35 of the Human Rights Council

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. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition by supporting its member organizations, local, national and regional abolitionist forces and by coordinating the international advocacy towards worldwide abolition of the death penalty. The World Coalition gives a global dimension to the action taken by its members on the ground. It complements their initiatives, while constantly respecting their independence. 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.

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 hold a seat on the Steering Committee of the World Coalition against the Death Penalty.

The Cornell Center on the Death Penalty Worldwide (CCDPW) provides transparent data on death penalty laws and practices around the world, publishes reports and manuals on issues of practical relevance to lawyers, judges, and policymakers, trains lawyers in best practices, and engages in targeted advocacy and litigation. The Center has gained a reputation for providing comparative legal analysis of the application of the death penalty, as well as for its one-of-a-kind Makwanyane Institute for capital defenders. Our Alice Project, which is the first global project to focus on women facing capital punishment, examines the role of gender

in death penalty cases. By representing women before national and international tribunals, organizing judicial trainings, and through data collection and analysis, we are exposing the connection between gender-based discrimination and capital sentencing. Center staff and associated faculty continue to defend persons facing the death penalty around the world, with a combined caseload of dozens of death row prisoners. Students play a major role in our advocacy efforts through Professor Babcock's International Human Rights Clinic. Generations of Cornell undergraduates and law students have contributed to our research, training, and individual case representation.

Reprieve is a charitable organisation registered in the United Kingdom 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. In particular, we protect the rights of those facing the death penalty and of victims of arbitrary detention, torture, and extrajudicial execution.

The **Anti-Death Penalty Asia Network (ADPAN)** is the peak regional body for organisations committed to the abolition of the death penalty across the 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.

Capital Punishment Justice Project (CPJP) is an Australian based NGO that stands for a world without the death penalty or other forms of state-sanctioned killing. CPJP works closely with partners in Asia – where the majority 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. Australia has identified abolition of the death penalty as one of its human rights priority areas and CPJP's work is imperative to ensuring that Australia is a leading voice on abolition.

I. Gender apartheid & discriminatory laws

1. In some jurisdictions, discriminatory laws disproportionately target women, limiting their access to a fair trial. In Iran, discriminatory laws include the denial of women's right to divorce, the difference in age of criminal responsibility between girls and boys, gendered witness testimony standards, or the immunity from *qisas* awarded to men¹.
2. Offenses against sexual morality, or *zina*, appear gender-neutral on their face, but in practice are applied in a discriminatory manner against women. Extramarital pregnancy is *prima facie* evidence of *zina*. Not only is this form of evidence gender-specific, but it could also be the result of rape². These jurisdictions prevent victims of gender-based violence (GBV) from reporting it, exposing them to higher risks of death penalty.³

II. Gender, Poverty, Disabilities, Race, and Citizenship Status Jeopardize Women's Access to Fair Justice

3. Most women sentenced to death come from disadvantaged social backgrounds, are from ethnic and racial minorities, are non-literate, have intellectual or psychological disabilities, and have experienced GBV⁴. These factors have an adverse impact on their ability to "access to justice on an equal basis with men"⁵ and on their ability to access trials that respect equality of arms.
4. **Poverty**, which disproportionately affects women, often forces them to rely on underqualified legal aid attorneys⁶, while high illiteracy rates and a lack of awareness of their legal rights expose them to false confessions and miscarriages of justice.⁷
5. As highlighted in Iran⁸ and in drug-related cases⁹, women sentenced to death often face **social stigmatization**, which reinforces their isolation and prevents them from benefiting from the solidarity networks that men often enjoy.
6. In some Gulf states, **migrant women**¹⁰ face exacerbated challenges including lack of linguistic, cultural, and institutional knowledge of the criminal justice process, seriously impeding their ability to afford proper legal representation and exposing them at risk of

¹ Iran Human Rights, *Women and the death penalty in Iran A gendered perspective* (2025), p. 6 https://iranhr.net/media/files/En_Gender_Perspective_of_the_Death_Penalty_in_Iran_EN.pdf

² Saudi Arabia: *Forthcoming Penal Code Should Protect Rights* | Human Rights Watch (hrw.org), <https://www.hrw.org/news/2022/04/29/saudi-arabia-forthcoming-penal-code-should-protect-rights>

³ Mobilising for Rights Associates, *Protection Not Prison: How the criminalization of sexual relations outside of marriage promotes violence against women Action Research Report* (2022), p. 22 <https://mrawomen.ma/wp-content/uploads/doc/490%20Final%20report%20French%20final.pdf>

⁴ Ibid, p. 15-16-17-18.

⁵ United Nations human rights Office, *U.N. rights experts warn*, (2017). <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&LangID=E>

⁶ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime* (2018), p 3 and Cornell Center on the Death Penalty Worldwide, *No One Believed Me* (2021), p 32. <https://dpw.lawschool.cornell.edu/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>

⁷ Monash University, Eleos Justice, Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-sanctioned killing of women*, (2023), p.22

⁸ Iran Human Rights, *Women and the Death Penalty in Iran: A Gendered Perspective*, 2024, p 4 https://iranhr.net/media/files/En_Gender_Perspective_of_the_Death_Penalty_in_Iran_EN.pdf

⁹ Cornell Center on the Death Penalty Worldwide, *No One Believed Me* (2021), p 32.

¹⁰ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime* (2018), p. 17.

forced and false confession¹¹. The cases of Mary Jane¹² and of Rizana Nafeek¹³ highlight well these challenges.

III. Legal System's Failure to Account Gender-Related Mitigating Circumstances

7. The lack of recognition of women's backgrounds by a legal system exacerbates inequality of arms and increased the risk of miscarriages of justice and the criminalization and execution of survivors.
8. In the 25 countries with mandatory death penalties for murder or aggravated murder¹⁴, mitigating circumstances including GBV can't be considered at sentencing.
9. Even when mitigating circumstances are considered, gender biases within the judicial system often prevent the acknowledgment of gender-related factors in death penalty cases.
10. Legal systems historically shaped by men perpetuate gender stereotypes, especially as women are underrepresented in key roles. In the US, as of July 1, 2024, 96% of District Attorneys in cases involving women on death row in the United States were men, and 89% of these women were tried in courtrooms presided over by male judges¹⁵.
11. Globally, similar patterns are observed, with women poorly represented among police officers, lawyers, and judges¹⁶.
12. Research shows that male-dominated juries are more likely to accept gendered stereotypes presented by the prosecution. In contrast, women jurors are generally less supportive of the death penalty, more likely to recognize the seriousness of intimate partner violence, and less likely to blame female defendants for their victimization¹⁷.
13. In general, judicial actors implicated in the process leading to the death penalty often lack the training or sensitivity to effectively address issues related to GBV¹⁸.

Gender stereotypes impacting women's trial

14. Sandra Babcock shows¹⁹ that prosecutors often rely on gendered stereotypes to influence juries. This reliance on stereotypes contributes to harsher sentencing outcomes for women who deviate from traditional gender roles. Prosecutors might highlight irrelevant details

¹¹ *Op. cit.*, p. 17

¹² Cornell Center on the Death Penalty Worldwide, *No One Believed Me* (2021), p 40-41.

¹³ Human Rights Watch, *Saudi Arabia's Attack on Foreign Domestic Workers* (January 2023), <https://www.amnestyusa.org/saudi-arabias-attack-on-foreign-domestic-workers/>

¹⁴ The Cornell Centre on the Death Penalty Worldwide Database (n.d.) identifies 25 countries in which murder or aggravated murder may carry the mandatory death penalty. These countries are Afghanistan, Botswana, Brunei, Gambia, Ghana, Iran, Libya, Mauritania, Myanmar, Niger, Nigeria, Pakistan, Palestine, Qatar, Saudi Arabia, Singapore, Somalia, South Sudan, Sri Lanka, Sudan, Tanzania, Thailand, Trinidad and Tobago, United Arab Emirates, and Yemen.

¹⁵ Sandra Babcock, *Gendered Capital Punishment*, 31 *Wm. & Mary J. Race, Gender & Soc. Just.* (forthcoming 2025), p.19. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5118142

¹⁶ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, 2018, p.8

¹⁷ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, 2018, p.8

¹⁸ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, 2018, p.8

¹⁹ Sandra Babcock, *Gendered Capital Punishment*, 31 *Wm. & Mary J. Race, Gender & Soc. Just.* (forthcoming 2025)

about women's sexual histories, such as their number of partners or choice of clothing, to discredit them²⁰.

15. Judges also often rely on stereotypes of what constitutes a “good victim” to recognize or not her guilt²¹.
16. In January 2025, the U.S. Supreme Court ruled that gendered evidence violated Brenda Andrew's²² due process rights, marking the first time it recognized that such evidence could make a trial fundamentally unfair.²³
17. Women from marginalized backgrounds face compounded discriminations in capital cases because they are subjected to both gendered stereotypes and additional biases related to race, class, and migration status²⁴. Racialized women are often perceived as inherently more dangerous, aggressive, or morally corrupt compared to white women²⁵ and migrant women are frequently viewed through a lens of criminal suspicion, with courts overlooking factors such as coercion, trafficking, or exploitation²⁶.

The disregard of GBV in capital trials and the criminalization of survivors

18. The failure to consider gender-based mitigating factors often lead to severe penalties, for women in trials that lack equality of arms, resulting in miscarriages of justice and criminalization of survivors²⁷.
19. The overwhelming majority of women on death row have experienced GBV prior to their incarceration. In the United States for example, at least 96% of women currently on death row experienced GBV before they are incarcerated.²⁸
20. In Kenya, a notable proportion of women on death row have been convicted of murder in contexts involving GBV. However, courts often fail to consider histories of abuse and trauma as mitigating factors during sentencing²⁹. This situation is seen globally, where murder, frequently committed in the context of gender-based violence, is the most common offense leading to women's death sentences.³⁰

²⁰ Cynthia Calkins & Natalia Feldgun, *Did Sex Shaming Lead to the Death Penalty?*, Am. Psych. Ass'n (2024), cited in Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.12.

²¹ Monash University, Eleos Justice, Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-sanctioned killing of women*, March 2023, p 34.

²² Brenda Andrew was convicted in 2004 of killing her husband to collect insurance money. At trial, prosecutors portrayed her as promiscuous and immoral, using evidence unrelated to the crime to sway the jury. https://www.supremecourt.gov/opinions/24pdf/23-6573_m647.pdf

²³ USSC, *Andrew v. White*, 604 U.S. ____ (2025)

²⁴ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, September 2018, p.15.

²⁵ The Advocates for Human Rights, the World Coalition Against the Death Penalty, the Cornell Center on the Death Penalty Worldwide, *Contribution to the CEDAW Half-Day Discussion on Gender Stereotypes* (February 10, 2025), al. 33.

²⁶ Cornell Center on the Death Penalty Worldwide, *No One Believed Me*, September 2021.

²⁷ *Ibid.*

²⁸ Sandra Babcock, *Op. cit.*, p. 32

²⁹ International Commission of Jurists, *Women and the Death Penalty in Kenya*, 2023, p 36.

³⁰ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, September 2018, p.11.

21. This non-recognition of GBV also stems from the difficulty to provide evidence of self-defense, as illustrated by the case of Alice Nungu, as her defense was never raised in court, and the history of abuse she endured was ignored³¹.

³¹ Cornell Center on the Death Penalty Worldwide, *Judged for More than Her Crime*, p. 30.