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**Promotion and protection of all human rights, civil,
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including the right to development**

The death penalty from the perspective of the prohibition of torture and other ill-treatment and the protection of human dignity

**Report of the Special Rapporteur on extrajudicial, summary or
arbitrary executions, Morris Tidball-Binz***

Summary

In the present report, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Morris Tidball-Binz, examines the legality of the death penalty in view of the inherent extreme pain and suffering it inflicts on those affected at every stage of the process, from arrest to execution, and the affront it constitutes to human dignity. In the report, the Special Rapporteur finds that this suffering is not merely incidental to capital punishment but is inherent in its design and implementation and amounts to torture or ill-treatment. It is further intensified by secrecy, arbitrariness, abuse, discrimination, and the vulnerability and powerlessness routinely experienced by those subjected to it. The report concludes that, under contemporary international law and in light of current medical and psychological understanding of torture and its effects, the death penalty cannot be reconciled with the absolute prohibition of torture and the duty to protect human dignity. In the report, the Special Rapporteur calls upon all retentionist States in law or in practice to urgently halt executions and move towards full abolition.

* The annex to the present report is circulated as received, in the language of submission only.



I. Activities relating to the mandate

1. The present report has been prepared pursuant to Human Rights Council resolution 53/4. The main activities undertaken by the Special Rapporteur from 1 April 2025 to 31 March 2026 are described in the annex.

II. The death penalty from the perspective of the prohibition of torture and other ill-treatment and the protection of human dignity

A. Introduction

2. Capital punishment represents the ultimate exercise of State coercive power: the intentional and irreversible deprivation of life by public authority. International law has progressively narrowed the scope for its application through cumulative substantive restrictions, and heightened procedural safeguards.¹ Under the International Covenant on Civil and Political Rights, the death penalty is legally exceptional and may be applied, if at all, only for the most serious crimes, under the strictest limitations and safeguards, and consistently with the prohibition of arbitrary deprivation of life.

3. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as torture and other ill-treatment) is absolute and non-derogable.² The prohibition of torture forms part of customary international law and has attained the status of a peremptory norm of general international law, binding all States irrespective of treaty obligations and giving rise to obligations *erga omnes*.³

4. In the present report, the Special Rapporteur assesses, in the light of contemporary international law, whether capital punishment is compatible with the absolute prohibition of torture and other ill-treatment. In the report, a trajectory-based approach is used, examining capital punishment as a State-controlled process extending from arrest through to execution and post-execution, and capable at each stage, by act or omission, of foreseeably and cumulatively inflicting severe physical or mental suffering amounting to torture or other ill-treatment.

5. United Nations human rights mechanisms have progressively examined capital punishment from the perspective of human dignity, freedom from torture and other ill-treatment, and fair trial guarantees.⁴ Across this body of jurisprudence, reporting and authoritative interpretation, a clear analytical direction has emerged: capital punishment cannot be assessed solely as a judicial sanction, but must also be examined as a State-controlled penal regime whose compatibility with international law depends on the cumulative suffering it generates and the conditions governing its imposition and enforcement.

6. The reference in article 6 (2) of the International Covenant on Civil and Political Rights to conditions governing the application of the death penalty suggests that, at the time of drafting, States Parties did not universally regard capital punishment as a form of torture. However, the growing number of States Parties to the Second Optional Protocol to the International Covenant on Civil and Political Rights, the adoption of other international

¹ International Covenant on Civil and Political Rights, art. 6; and Human Rights Committee, general comment No. 36 (2018), paras. 2, 35, 36, 40–44, 50 and 51.

² International Covenant on Civil and Political Rights, art. 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 1, 2 and 16; Committee against Torture, general comment No. 2 (2008), paras. 1–3; and A/67/279, paras. 25–29 and 48–51.

³ International Law Commission, Draft Conclusions on Peremptory Norms of General International Law (*jus cogens*) (2019), conclusions 2 and 3.

⁴ See, for example, E/CN.4/2006/53/Add.3, paras. 32–35; A/67/279, chaps. III–V; A/HRC/36/27, paras. 15–18; Human Rights Committee, general comment No. 36 (2018), paras. 35–40 and 50; and A/77/270, paras. 69–93.

instruments prohibiting the imposition of capital punishment, and the increasing number of non-abolitionist States that have nevertheless introduced moratoriums on executions, coupled with contemporary understanding of the severe physical and mental suffering associated with capital punishment, indicate significant progress towards recognizing the death penalty, at a minimum, as a cruel, inhuman or degrading form of punishment. This evolution is reflected in authoritative interpretation affirming that the death penalty must at no point be imposed or carried out in a manner contrary to article 7 of the International Covenant on Civil and Political Rights, and in contemporary agreements and practice that increasingly regard capital punishment as incompatible with the prohibition of torture and ill-treatment and, accordingly, as contrary to the prohibition of arbitrary deprivation of life under article 6 of the Covenant.⁵

7. In his 2022 report, the Special Rapporteur concluded that the proposition that the death penalty did not constitute torture lacked “persuasion”.⁶ The present report builds on that assessment and, on the basis of extensive research, field interviews and submissions received in response to the call for inputs, examines the compatibility of capital punishment, as it operates in law and in practice across its full trajectory, with the absolute prohibition of torture and other forms of ill-treatment and with the protection owed to human dignity. It concludes that capital punishment is incompatible with those obligations and calls on all States that retain it in law or in practice to urgently halt executions and move towards full abolition.

8. In preparing the present report, the Special Rapporteur received 55 submissions from States, civil society organizations, academics, professional associations and other experts. He conducted interviews with persons directly affected by capital punishment, including family members of persons on death row, and exonerated death row prisoners, as well as lawyers, religious advisers and other professionals working closely with them. The interviews were informed by the Special Rapporteur’s medicolegal experience, including from examining torture survivors around the world. The Special Rapporteur expresses his gratitude to all those who contributed to the preparation of the report, and to the secretariat of the mandate for the research and drafting support. He is particularly grateful to those whom he had the opportunity to interview, for their courage and trust.

B. Normative and doctrinal framework: the right to life, to human dignity and to freedom from torture and ill-treatment

9. The right to life is a fundamental and supreme right from which no derogation is permitted, even in situations of armed conflict and other public emergencies that threaten the life of a nation. The right to life includes the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity. International human rights law guarantees the right not to be arbitrarily deprived of life for all human beings, without distinction of any kind, including for persons suspected or convicted of the most serious crimes. This prohibition in article 6 (1) of the International Covenant on Civil and Political Rights further limits the ability of States parties to apply the death penalty, in violation of the prohibition of torture which would inevitably render the execution arbitrary.

10. Human dignity is a foundational principle of international human rights law and has been recognized as a general principle informing the interpretation and application of States’ human rights obligations. The Universal Declaration of Human Rights places “inherent dignity” at the foundation of freedom, justice and peace in the world, while the preamble to the International Covenant on Civil and Political Rights affirms that the rights it proclaims “derive from the inherent dignity of the human person”. The Vienna Declaration and Programme of Action likewise reaffirms that all human rights derive from the dignity and worth inherent in the human person. In international human rights law, the protection of human dignity is given concrete expression through a set of specific and interrelated rights, including the right to life, the prohibition of torture and other ill-treatment, the right to

⁵ Human Rights Committee, general comment No. 36 (2018), para. 50; [A/77/270](#), paras. 69–93; and General Assembly resolution 79/179, preamble.

⁶ [A/77/270](#), paras. 88–93.

humane treatment of persons deprived of liberty, respect for private and family life, access to effective remedies, and the principles of equality and non-discrimination.

11. The right to be free from torture and other ill-treatment is absolute and non-derogable under international law. It applies at all times and under all circumstances, without justification or exception. Under the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, this prohibition binds all branches of the State and protects all persons subject to its jurisdiction or effective control. States' obligations are not exhausted by abstention from direct violations. They include duties to take effective legislative, administrative, judicial and other measures to prevent torture and other ill-treatment; to protect persons at risk; to investigate promptly, effectively, independently and impartially where there are reasonable grounds to believe that such conduct may have occurred; to exclude torture-tainted evidence; and to ensure access to effective remedies and reparation. These obligations give practical effect to the absolute prohibition, particularly in criminal justice contexts in which individuals are deprived of liberty and placed under the control of the State.⁷

12. Under article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, torture comprises four cumulative elements: intentional infliction; of severe physical or mental pain or suffering; for a prohibited purpose, such as to obtain information or a confession, or for punishment, intimidation, coercion, or any reason based on discrimination; with the involvement of a public official or other person acting in an official capacity, whether directly, by instigation, or through consent or acquiescence. Article 16 of the Convention requires States to prohibit and prevent other acts of ill-treatment that do not amount to torture within the meaning of article 1. The reference in article 1 of the Convention to pain or suffering arising only from, inherent in or incidental to lawful sanctions cannot be understood as excluding from scrutiny any punishment authorized under domestic law. As international practice on corporal punishment has made clear, "lawful sanctions" must be read consistently with international law and evolving standards of human dignity. A sanction that is incompatible with the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or other international law provisions cannot be insulated from review merely because it is formally authorized in domestic law.⁸

13. Torture may be physical or mental, and the assessment of severity is contextual, depending on the impact on the individual concerned, particularly where the person is in a situation of vulnerability.⁹ In capital cases, fear, uncertainty, isolation, exposure to execution procedures, denial of information and the treatment of relatives may inflict severe mental suffering even in the absence of direct physical harm. While the distinction between torture and other forms of prohibited ill-treatment remains legally relevant, in practice it is often one of degree, purpose and context, rather than of kind. The Committee against Torture has emphasized that obligations to prevent torture and ill-treatment are indivisible and interrelated, and that the line between them is often not clear in practice.¹⁰

14. A further fundamental interpretive feature in distinguishing torture from other ill-treatment, particularly in custodial settings marked by fundamental imbalance of power

⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 2 and 11–15; International Covenant on Civil and Political Rights, arts. 2 (3), 7 and 14; Committee against Torture, general comment No. 2 (2008), paras. 6–18; Human Rights Committee, GC No. 20, paras. 8–14.

⁸ See [E/CN.4/1988/17](#), paras. 42 and 44 (stating that international law, not domestic law, ultimately determines whether a practice may be regarded as a lawful sanction); [A/HRC/10/44](#), para. 38; [A/67/279](#), paras. 27 and 28; European Court of Human Rights, *Tyrer v. United Kingdom*, judgment of 25 April 1978; Inter-American Court of Human Rights, *Caesar v. Trinidad and Tobago*, judgment of 11 March 2005; [CAT/C/CR/28/5](#), para. 4 (b); and [CAT/C/QAT/CO/1](#), para. 12.

⁹ Human Rights Committee, general comment No. 20 (1992), para. 5; Committee against Torture, general comment No. 2 (2008), para. 21; [A/63/175](#), para. 50; [A/HRC/13/39](#), para. 60; [A/HRC/22/53](#), para. 31; and [A/HRC/43/49](#), para. 39.

¹⁰ Committee against Torture, general comment No. 2 (2008), para. 3.

and total dependency on the authorities, is powerlessness.¹¹ The underlying logic is that, where a person is under the complete control of the State and unable to escape, resist, document abuse or secure basic guarantees, the same acts or conditions are more likely to cross the threshold of torture. Capital punishment intensifies that condition. A person facing possible execution is subjected to a form of radical dependence in which the State controls liberty, communication, access to counsel, medical care, contact with family, conditions of detention and, ultimately, life itself. That powerlessness may be further compounded by disability, youth, age, poverty, language barriers, minority status or discrimination.

15. Responsibility for torture and ill-treatment by omission includes situations in which authorities knew or should have known of a real risk of severe pain or suffering and failed to take feasible preventive measures; where officials tolerate, facilitate, or fail to respond to abuse; or where ill-treatment results from detention conditions, denial of essential medical care, or failure to investigate credible allegations of torture or ill-treatment. These duties of due diligence and affirmative protection also operate alongside article 10 of the International Covenant on Civil and Political Rights, which requires that all persons deprived of their liberty be treated with humanity and with respect for the inherent human dignity.

16. In the context of capital punishment, the prohibition of torture and other ill-treatment overlaps closely with the right to life and the protection of human dignity. Human Rights Committee general comment No. 36 (2019) makes it clear that the death penalty, where not abolished, is legally exceptional; that the term “most serious crimes” must be read restrictively and limited to crimes of extreme gravity involving intentional killing; that it may not be imposed for conduct whose very criminalization violates the International Covenant on Civil and Political Rights; and that mandatory death sentences are arbitrary. The Covenant recognizes that abolition is desirable as a means of enhancing human dignity and that subsequent agreements and practice may ultimately support the conclusion that capital punishment is incompatible with articles 6 and 7 in all circumstances.

17. International human rights law identifies clear categories in which the death penalty may not be imposed. It is categorically prohibited for offences committed by persons below 18 years of age and against pregnant women, and its use is further restricted for new mothers and persons with severe mental or intellectual impairments. More recent authoritative interpretation further indicates that retentionist States should refrain from imposing it on persons whose serious psychosocial or intellectual disabilities impaired their effective defence, on persons with limited moral culpability, and on persons whose execution would be exceptionally cruel by reason of their particular vulnerability. The death penalty must also not be imposed in a discriminatory manner; patterns of disproportionate application affecting racial, ethnic or religious minorities, indigent persons or foreign nationals may indicate violations of articles 2 (1) and 26 of the International Covenant on Civil and Political Rights, read together with article 6.

18. Procedural guarantees in capital cases are not merely formal due process requirements, but essential protections against torture and other ill-treatment, arbitrariness and irreversible harm. The Human Rights Committee has stated that violations of article 14 in proceedings resulting in the imposition of the death penalty render the result arbitrary in nature. In addition, exposure to an irreversible punishment through secretive, discriminatory or manifestly unreliable procedures may itself generate severe mental suffering engaging article 7 of the International Covenant on Civil and Political Rights. These risks may be especially acute in cases justified on the basis of the war against drugs, counter-terrorism, or national security or public order, including where such charges are used to criminalize dissent or the exercise of fundamental freedoms, and where exceptional laws, procedures or practices restrict access to fundamental safeguards.

19. Regional jurisprudence reinforces the proposition that the legality of capital punishment cannot be assessed solely at the level of formal sentencing, and that its implementation raises recurrent issues of dignity, mental suffering, arbitrariness and ill-treatment. European Court of Human Rights case law has developed from recognition of the “death row phenomenon” in *Soering v. United Kingdom* to the view, reflected in

¹¹ [A/63/175](#), para. 50; and [A/HRC/43/49](#), paras. 21–27.

Al-Saadoon and Mufdhi v. United Kingdom, that capital punishment has become an unacceptable form of punishment incompatible with article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), read in the light of Protocol No. 13 to the Convention, which abolishes the death penalty in all circumstances. The jurisprudence of the Inter-American Court of Human Rights rejects the automatic or mandatory imposition of the death penalty and ties death penalty restrictions to humane treatment and dignity. In addition, the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights have likewise held that the mandatory imposition of capital punishment, unfair death penalty proceedings and related detention and execution practices may violate the rights to life, dignity, fair trial, and the prohibition of cruel, inhuman or degrading treatment.¹²

C. Analytical framework: the “capital punishment trajectory”

20. Capital punishment unfolds across legally distinct yet practically interconnected stages (a trajectory): arrest, interrogation, pretrial detention, trial, sentencing, imprisonment under sentence of death, execution, and post-execution practices. Each stage engages specific duties of prevention, protection, scrutiny, accountability and remedy. Each may independently, and cumulatively, generate foreseeable physical or mental suffering. Violations of the prohibition of torture committed at one stage may shape, intensify or contaminate those that follow.

21. Capital cases are marked by systemic features and institutional dynamics that heighten the risk of torture and other ill-treatment. These include pressure to secure confessions and convictions in cases perceived as exceptionally grave; evidentiary asymmetry between the State and the accused; secrecy surrounding investigation, detention and execution; weak scrutiny of allegations of torture or ill-treatment; and the irreversible consequences of error. In this setting, coercion, arbitrariness and suffering do not arise episodically. They may accumulate across the life of the case and become inseparable from its outcome.

1. Arrest, pretrial detention, interrogation and the integrity of evidence

22. The earliest stages of capital cases present acute risks. The threat of death may become a tool of pressure even before conviction, shaping whether a person speaks, confesses, waives rights or submits to procedural shortcuts. At that stage, the person is often isolated, subject to a marked imbalance of power, and dependent on the authorities. In the United States of America, the threat of death has reportedly been used to induce waivers of trial rights before any full judicial determination of guilt. In one case, the prosecution reportedly sought to have a capital defendant sign a plea agreement without counsel present, after isolating him and withholding food.

23. The State's preventive obligations under article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are engaged from the outset of deprivation of liberty.¹³ Those obligations require the effective application, in law and in practice, of fundamental safeguards, including immediate notification of rights; prompt and confidential access to legal counsel; prompt access to an independent medical examination; notification of family members or, where relevant, consular authorities; timely judicial control over detention; the possibility of challenging the legality and conditions of detention; proper recording of interrogations; exclusion of torture-tainted evidence; and prompt, independent and impartial investigation of allegations of abuse. Where such safeguards are delayed, denied or rendered ineffective, they fail in their preventive function,

¹² Inter-American Court of Human Rights, *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, judgment of 21 June 2002; African Commission on Human and Peoples' Rights, *Interights and Ditshwanele v. Botswana*, communication No. 319/06; African Court on Human and Peoples' Rights, *Rajabu and Others v. United Republic of Tanzania*, application No. 007/2015; and African Court on Human and Peoples' Rights, *Juma v. United Republic of Tanzania*, application No. 024/2016.

¹³ Committee against Torture, general comment No. 2 (2008), paras. 1–3 and 16–18; [A/63/175](#), paras. 46–55; and [A/77/185](#), paras. 64–69.

contrary to articles 11, 12 and 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁴ In capital cases, the consequences are especially grave because early coercion may shape the evidentiary basis of an irreversible sentence.

24. Recurring patterns of weakened safeguards in capital cases have been systematically documented. In Mauritania, persons arrested in counter-terrorism operations were reportedly held for prolonged periods in unofficial or undisclosed locations, compelled to sign documents without being able to read them, and brought before judicial authorities only after weeks or months. In Kenya, almost two thirds of death row prisoners have been reported not to have had lawyers when they were arrested and interrogated. In countries such as Indonesia, Malaysia and Singapore, where foreign nationals are disproportionately sentenced to death, defendants face additional challenges such as language barriers, unfamiliarity with legal systems and lack of consular support, making inadequate representation more likely. These are not merely ordinary procedural shortcomings. They create conditions in which torture, coercion and evidentiary distortion may become embedded in the prosecution case before the person ever reaches trial.

25. Similar concerns arise in relation to vulnerability and the quality of medicolegal protection. Standards on the effective documentation and investigation of torture (the Istanbul Protocol) are central where torture or ill-treatment is alleged in capital proceedings.¹⁵ In Maldives, the absence of comprehensive psychosocial assessments prior to capital prosecution was identified as a serious gap, especially where such assessments may be necessary in order to identify mental health conditions, psychosocial disabilities, trauma or other vulnerabilities affecting a person's capacity to participate effectively in proceedings or heightening their susceptibility to coercion. In Pakistan, medical examinations in torture cases have been described as delayed or cursory and as lacking forensic independence, undermining both prevention and documentation of torture, contrary to articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

26. In many capital cases, torture is embedded in the evidentiary logic of the prosecution. Where investigative systems prioritize confessions over the collection and testing of independent evidence, torture and coercion shape the evidentiary record on which later stages of the case depend. Reliance on confessions extracted through torture or coercion fundamentally undermines the presumption of innocence, by distorting the burden of proof and compelling self-incrimination at the outset of the criminal process. In Saudi Arabia, patterns of coercion, prolonged isolation and threats directed at family members to compel confessions later relied upon in capital proceedings have been reported.¹⁶ Regarding Viet Nam, the Human Rights Committee reiterated in 2025 that confessions extracted during investigations continued to be presented as evidence in court, including in cases involving the death penalty.¹⁷ These patterns directly engage article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and confirm that the exclusionary rule is not merely a technical rule of evidence, but a central safeguard against both torture and arbitrary deprivation of life.

27. The absence of effective scrutiny of torture allegations aggravates these risks. Where complaint mechanisms are weak, inaccessible or institutionally dependent on the same authorities implicated in the abuse, the State's failure is not limited to the original act of torture or ill-treatment. It extends to failures of prevention, protection, investigation, and exclusion of torture-tainted material, before the process advances further, contrary to

¹⁴ Committee against Torture, general comment No. 2 (2008), paras. 11–23; Principles on Effective Interviewing for Investigations and Information-Gathering (the Méndez Principles); and Human Rights Committee, general comment No. 20 (1992), para. 6.

¹⁵ Human Rights Committee, general comment No. 36 (2018), paras. 50–56; and Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), revised edition, 2022.

¹⁶ See [CAT/C/SAU/CO/2](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24478), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24478> and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26454>.

¹⁷ See [CAT/C/VNM/CO/1](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26454).

articles 2, 12 and 13 of the Convention. The same is true where places of detention, including police custody and other sites of deprivation of liberty, are not subject to regular, independent and unannounced monitoring, allowing torture or coercion to remain concealed. In Bahrain, torture complaints raised by persons facing execution were reportedly dismissed by oversight bodies as unsubstantiated, despite criticism of those bodies' lack of independence. In Saudi Arabia, a defendant was reportedly pressured to withdraw torture claims as a condition for proceedings to continue. These failures do not merely weaken remedies after the fact. They allow the capital process to advance on a foundation of unexamined abuse and lead to miscarriages of justice.

28. In cases where access to counsel is delayed, detention is secret or incommunicado, medical examination is absent or ineffective, interrogations go unrecorded, torture allegations are not investigated, and coerced statements are admitted or are permitted to structure the prosecution case, the later stages of the trial and the sentencing validate and exacerbate these abuses. In capital cases, where the sentence is irreversible, the detention and interrogation phase is thus the point at which the State either fulfils or fails its obligation to prevent torture and other ill-treatment in conditions of maximum vulnerability, in violation of article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁸

2. Trial, sentencing, appeal and review

29. In capital cases, fair trial guarantees are safeguards against torture and other forms of ill-treatment, arbitrariness and irreversible error. Once the prosecution seeks the death penalty, every defect in notice, disclosure, access to counsel, interpretation, examination of witnesses, admissibility of evidence or judicial impartiality acquires heightened significance, because it may determine whether the State takes life with cruelty and arbitrarily.¹⁹

30. Among these guarantees, the principle of equality of arms is a core component of the right to a fair trial. It requires a genuine balance between prosecution and defence in access to evidence, time, facilities, legal assistance and procedural opportunities. Where the death penalty is sought, structural imbalance between the parties directly aggravates the accused person's condition of powerlessness vis-à-vis the State. This imbalance has a disproportionate impact on poor defendants often dependent on underresourced ex officio counsel, whereas those with financial means are far better able to secure experienced capital defence. One testimony described underresourced State-appointed lawyers with no prior criminal defence experience and/or whose substance abuse problems seriously impaired representation. In another, counsel later admitted malpractice and was then disbarred because he had not been in a mental state to provide an adequate defence or present mitigation. In capital cases, where equality of arms is undermined – whether through inadequate defence, restricted access to prosecution material, limitations on defence investigation, or insufficient time and resources to prepare – such imbalance intensifies dependency, uncertainty and loss of agency under a credible threat of death, contributing to severe mental suffering.

31. Judicial proceedings may fail to fulfil this protective function against abuse in the absence of a genuine adversarial framework capable of testing the prosecution case and excluding torture-tainted evidence, preventing such evidence from forming the basis of a conviction or sentence. In Iraq, defendants accused of terrorism-related offences who have denounced their torture to judicial authorities have seen their requests for medical examination dismissed or denied, and their forced confessions have been treated as primary evidence to prove guilt in court.²⁰ In the United Arab Emirates, restricted access to evidence,

¹⁸ Human Rights Committee, general comment No. 36 (2018), paras. 40, 43, 50 and 51; European Court of Human Rights, *Soering v. United Kingdom*, application No. 14038/88, judgment of 7 July 1989, paras. 102–104; and Inter-American Court of Human Rights, *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, judgment of 21 June 2002.

¹⁹ Human Rights Committee, general comment No. 32 (2007), paras. 6 and 7; Human Rights Committee, general comment No. 36 (2018), paras. 40–44, 50 and 51; [CCPR/C/69/D/770/1997](#); and [CCPR/C/85/D/985/2001](#).

²⁰ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29197>.

limited disclosure of prosecution materials and reliance on classified evidence in terrorism and national-security cases have been described as undermining any genuine possibility of mounting an effective defence. These dynamics may also operate through discriminatory narratives and stigma. For example, Israeli law that provides for the death penalty solely against Palestinians constitutes a discriminatory regime of capital punishment and a serious violation of article 7 of International Covenant on Civil and Political Rights. One family described the capital prosecution of a Black defendant as shaped by the premise that “we all know Black people are criminals”, with his “character” thereby “assassinated” in advance of any genuine judicial safeguard. In another case, prosecutors reportedly relied on sexualized narratives about a female defendant’s dating history and clothing to argue for the death penalty. In such circumstances, proceedings become part of the mechanism through which coercion, discrimination and humiliation are converted into a sentence of death.

32. Similar concerns arise at the sentencing and review stages. Mandatory death sentences provide the clearest example, because they exclude meaningful judicial discretion and prevent full consideration of culpability and other relevant mitigating circumstances. Such regimes have repeatedly been found to violate article 6 of the International Covenant on Civil and Political Rights and to engage article 7.²¹ At a minimum, no execution may be carried out while judicial, clemency or international review remains pending, and such procedures must be capable in practice of examining torture allegations, evidentiary reliability, procedural fairness and mitigation. Where they are not, remedies become illusory. Their observance does not resolve the broader incompatibility with the prohibition of torture under international law.²²

33. Trial, sentencing, appeal and review in capital cases must therefore be understood as integral components of the State’s obligations to prohibit and prevent torture and arbitrary deprivation of life. Where violations at this stage lead to the imposition of the death penalty, the resulting process itself inflicts severe mental suffering. Even legal systems that formally maintain layered safeguards demonstrate the same principle: the more final the punishment, the more exacting, individualized and transparent the process must be. Where that standard is not met in practice, capital punishment becomes inseparable from the torture and arbitrariness that surround it.

3. Imprisonment on death row, de facto moratoriums and the “death row phenomenon”

34. Imprisonment under sentence of death raises distinct and cumulative concerns under the prohibition of torture and other ill-treatment. The suffering associated with capital punishment is often prolonged over years through the combined effects of extreme dependency, isolation, sustained uncertainty and the persistent anticipation of death. Testimonies from persons formerly under sentence of death describe conditions marked by constant fear, loss of agency and the inability to make ordinary life plans, coupled with the enduring awareness that death may be imposed at any moment without meaningful foreseeability or control.²³ In Iraq, prison guards at Al-Nasiriyah prison often falsely threatened death row prisoners with imminent execution, telling them to “get ready” as if an execution order had arrived, a practice described as inflicting constant terror and severe mental suffering.

35. These conditions must be assessed against the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which require humane treatment of all persons deprived of liberty and strictly limit sustained isolation and other restrictive measures liable to cause severe physical or mental suffering. In the death row context, such measures may include prolonged segregation, constant illumination and surveillance, routine use of handcuffs, shackles or chains, non-contact visits through glass partitions, restrictions on physical touch, and severely limited access to exercise, association, education, religion or other meaningful human contact. In the United States, one woman on

²¹ *Thompson v. Saint Vincent and the Grenadines* (CCPR/C/70/D/806/1998); *Weerawansa v. Sri Lanka* (CCPR/C/95/D/1406/2005); and Supreme Court of India, *Bachan Singh v. State of Punjab*.

²² *Piandiong, Morillos and Bulan v. Philippines* (CCPR/C/70/D/869/1999); and A/HRC/30/18, paras. 6–10.

²³ A/67/279, paras. 50–54.

death row was reportedly moved in handcuffs, a belly chain, a black box and leg shackles, while visits typically took place through plexiglass; in another case, a condemned man was reportedly chained from head to toe during a purported contact visit, and his family were later denied the ability to touch him before the scheduled execution. Comparable concerns have also been raised in relation to 24-hour surveillance, including in the cell and during use of the toilet, and the use of constant lighting in death row detention. Such conditions have been recognized as capable of crossing the threshold of ill-treatment and, cumulatively, of torture.

36. This constellation of cumulative suffering has long been described in international and regional jurisprudence as the “death row phenomenon”. In *Soering v. the United Kingdom*, the European Court of Human Rights held that prolonged exposure to such conditions may engage article 3 of the European Convention on Human Rights because of the “ever-present and mounting anguish” of awaiting execution. Comparable reasoning has been adopted in the inter-American system and, more recently, in African jurisprudence, which has recognized that detention on death row inherently encroaches upon human dignity and may amount to cruel, inhuman or degrading treatment or punishment.²⁴ Furthermore, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has repeatedly criticized approaches that treat such detention as legally neutral unless accompanied by an additional act of abuse. The Human Rights Committee has confirmed that prolonged delay in the implementation of a death sentence may violate article 7 of the International Covenant on Civil and Political Rights, particularly where the person concerned is exposed to harsh or stressful conditions of detention, including solitary confinement.²⁵

37. The legal significance of detention under sentence of death lies in the combined effect of duration, conditions and uncertainty. Even where no formal death row regime exists, detention characterized by overcrowding, poor sanitation, inadequate food, lack of physical and mental healthcare, absence of psychological support or severe material deprivation may, particularly when combined with a sentence of death, violate the obligations under articles 10 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The continuing prospect of execution may aggravate conditions that are already unlawful, intensifying fear, helplessness and loss of control.²⁶

38. Similar concerns arise in States observing de facto or de jure moratoriums while death sentences remain in force. A moratorium may reduce the immediacy of the risk of execution, but it does not necessarily eliminate the coercive force of the sentence or the severe mental suffering associated with living under it. Where persons remain under sentence of death for lengthy and indeterminate periods, without commutation, resentencing, removal from death row conditions, or any realistic pathway to release, the State is not merely preserving a formal legal status. It is maintaining a custodial regime in violation of articles 7 and 10 of the International Covenant on Civil and Political Rights, article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the requirements of the Nelson Mandela Rules.²⁷

4. Execution methods and regimes

39. The execution stage remains one of the clearest points at which the incompatibility between capital punishment and the prohibition of torture and other ill-treatment has been widely recognized. International law has long required that, where the death penalty is retained, it be carried out so as to cause the least possible suffering. However, relevant

²⁴ European Court of Human Rights, *Soering v. United Kingdom*, paras. 102–104; Inter-American Court of Human Rights, *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, judgment of 21 June 2002; and African Commission on Human and Peoples’ Rights, *Interights and Ditshwanelo v. Botswana*, communication No. 319/06.

²⁵ A/67/279, paras. 47–50 and 78; Human Rights Committee, general comment No. 36 (2018), para. 40; and A/77/270, paras. 76–80 and 88–93.

²⁶ *Johnson v. Jamaica* (CCPR/C/47/D/588/1994); and *Kindler v. Canada* (CCPR/C/48/D/470/1991).

²⁷ See, inter alia, European Court of Human Rights, *Iorgov v. Bulgaria* (application No. 40653/98), judgment of 11 March 2004, paras. 83–87; European Court of Human Rights, *G.B. v. Bulgaria* (application No. 42346/98), judgment of 11 March 2004, paras. 85–88; and European Court of Human Rights, *Poltoratskiy v. Ukraine* (application No. 38812/97), judgment of 29 April 2003, paras. 131–134.

jurisprudence and practice increasingly demonstrate the limits of this formulation. The Human Rights Committee has stated that methods such as stoning, gas chambers, burning or burying alive, public executions, and the use of untested lethal drugs are inherently incompatible with article 7 of the International Covenant on Civil and Political Rights,²⁸ while international jurisprudence has also emphasized that whatever the method of execution, the extinction of life involves some physical pain, and that the foreknowledge of death at the hands of the State inevitably gives rise to intense psychological suffering.²⁹

40. The defects associated with execution methods arise from recurring features that cut across technologies and jurisdictions. These include the infliction or serious risk of severe physical pain, the possibility of prolonged asphyxiation or suffocation, the inability to verify consciousness once paralytic agents or restraints are applied, the foreseeable risk of technical error, and the inherent humiliation involved in procedures designed to immobilize and kill a human being. International experts have concluded that States cannot guarantee a pain-free execution and that no method currently in use can be shown to comply, in all cases, with the prohibition of torture and other ill-treatment. Attempts to refine techniques or introduce new technologies have not eliminated these risks but have often obscured them.

41. Lethal injection illustrates these concerns with particular clarity. Its presentation as clinical and controlled has relied less on verified absence of suffering than on the appearance of medical order. Available medical and forensic evidence indicates that lethal injection may cause severe respiratory distress and sensations akin to suffocation or drowning. The use of paralytic agents may suppress visible signs of pain without preventing suffering, creating the appearance of a peaceful death while concealing severe distress. Where States rely on compounded, untested or clandestinely obtained substances, these risks are heightened further. In some jurisdictions, execution protocols, drug compositions and related data remain secret, preventing independent verification and accountability.

42. Transparency is indispensable at the execution stage. Opacity regarding execution protocols, the sourcing and composition of substances, the qualifications of those involved, the management of complications and the preservation of records undermines safeguards against arbitrary deprivation of life and ill-treatment. When such information is withheld, legal challenge and independent scrutiny become ineffective, and the suffering actually inflicted is shielded from review. Secrecy surrounding executions therefore does not merely affect oversight; it contributes directly to fear, uncertainty and extreme psychological harm.

43. The involvement of medical expertise and private actors raises related ethical concerns. Modern execution practices often depend on medicalized language, pharmaceutical products and industrial supply chains, creating a false appearance of therapeutic legitimacy around an act whose purpose is the extinction of life. International medical standards prohibit physician participation in executions at any stage.³⁰ The refusal of private actors, including pharmaceutical and industrial manufacturers, to supply products for use in executions further reflects this ethical consensus. Rather than abandoning execution practices, some States have responded through misrepresentation, illicit procurement and increased secrecy. The growing reliance on hidden supply chains underscores the impossibility of rendering executions medically neutral, ethically acceptable or reliably humane.

44. Evidence further indicates that the implementation of the death penalty may cause serious psychological harm to persons required to participate in or facilitate executions, including prison staff, execution team members, and religious or social workers providing end-of-life assistance. Accounts from several jurisdictions describe symptoms consistent with trauma, moral injury and long-term psychological distress, particularly where involvement is repeated or unavoidable. In at least one context, concerns regarding the cumulative impact on staff reportedly led authorities to reduce the frequency of executions. These effects underscore that capital punishment operates not solely as an individual

²⁸ Human Rights Committee, general comment No. 36 (2018), para. 40.

²⁹ European Court of Human Rights, *Al-Saadoon and Mufdhi v. United Kingdom*, paras. 115–120; and European Court of Human Rights, *Soering v. United Kingdom*, para. 111.

³⁰ World Medical Association resolution on prohibition of physician participation in capital punishment: see <https://www.wma.net/policies-post/wma-resolution-on-prohibition-of-physician-participation-in-capital-punishment/>.

sanction, but as a system of State action with foreseeable consequences for a wider range of persons, including those acting under official authority.

5. Post-execution practices and impact on families

45. The effects of capital punishment do not end with execution. The treatment of relatives before, during and after execution may itself engage the prohibition of torture and other ill-treatment. Practices such as failure to provide advance notice of execution, denial of final visits, refusal to disclose burial locations, withholding of remains, restrictions on mourning, and sustained secrecy may inflict severe mental suffering on family members that constitutes per se a form of ill-treatment. These harms often result from State conduct directed at persons who have committed no offence and who are themselves rights holders under international law. United Nations treaty bodies have recognized that secrecy surrounding executions, including concealment of execution dates and burial sites and refusal to return bodies, may amount to inhuman treatment of relatives. Such practices intentionally place families in a condition of prolonged uncertainty, shock and distress, exacerbating the suffering arising from the loss of a loved one.³¹

46. Restrictions on final contact, obstruction of visitation, withholding of remains and interference with burial and mourning may affect family life, freedom of religion or belief, cultural practices and recovery from grief. In an Iranian case, the family was reportedly denied the right to have the body returned and the right to know where it had been buried. Where families are prevented from performing burial rites or holding funerals, suffering is compounded. Such practices often intersect with stigma and economic vulnerability, resulting in isolation, loss of livelihood, indebtedness and long-term hardship.

47. Children of persons sentenced to death or executed are affected in especially profound ways. Evidence indicates heightened levels of psychological trauma, long-term mental health impacts, stigma, discrimination and insecurity. In some cases, children are denied information about the sentencing or the execution, or are informed only after the event, while the withholding of bodies or of burial information prevents ordinary mourning processes. These effects may persist over many years and directly affect educational, social and psychological development. Children in such circumstances remain independent rights holders entitled to protection, care and assistance by the State.

48. Post-execution practices therefore confirm the broader analysis: capital punishment is not experienced as a single terminal act, but as an extended sequence of State conduct whose effects reach beyond the person executed. Where families are denied notice, contact, remains or truth, the State inflicts an additional layer of suffering incompatible with human dignity. In such circumstances, control over information, mourning and memory becomes an instrument through which the punitive reach of capital punishment extends into the family sphere.

D. Survivors' perspectives: persons directly affected by the death penalty

49. The legal analysis set out in the present report is corroborated by testimony from persons directly affected by capital punishment, including individuals who were formerly under sentence of death, family members of persons sentenced to death, and others drawn into the execution process in professional or spiritual roles. These accounts provide direct evidence of how capital punishment is experienced in practice as a prolonged condition of fear, dependency, humiliation and loss of control, inflicting extreme pain and suffering from the moment the sentence is contemplated to the day of execution, release, commutation or exoneration and beyond.

³¹ *Staselovich v. Belarus* (CCPR/C/77/D/887/1999), para. 9.2; *Selyun v. Belarus* (CCPR/C/134/D/2840/2016), para. 7.3; *Grunova and Grunov v. Belarus* (CCPR/C/123/D/2375/2014 and CCPR/C/123/D/2690/2015), para. 7.5; *CAT/C/BWA/CO/1*, paras. 23 and 24; and *CCPR/C/BWA/CO/2*, paras. 15–16 (c).

50. Former death row prisoners consistently describe the sentence of death as a condition of sustained psychological assault rather than anticipation of a single future event. One survivor described death row as “psychological warfare”, explaining: “The lights never go out at night ... Every day you wake up knowing that the State intends to kill you.” Another stated bluntly: “I didn’t go to jail. I went to hell.” A third described the experience as “a sustained PTSD”, noting that each day began with the same realization: “You’re in prison, and they’re going to kill you.” These accounts depict fear not as episodic, but as routinized, in which survival itself becomes an ongoing strain.

51. Survivors further described the cruelty of death row confinement, marked by extreme isolation, deprivation and humiliation, including prolonged confinement in tiny cells, years without meaningful exercise or privacy, exposure to degrading treatment during basic daily activities, and deliberate intimidation by custodial staff, including graphic descriptions of execution methods. One individual recounted being forced outside unclothed in winter conditions after invoking the right to exercise. A spiritual adviser described the final holding area before execution as a space of permanent illumination, constant surveillance and ritualized humiliation, “intended to make you feel the inevitability of death so that you just give up”. Taken together, these accounts demonstrate how the death sentence is implemented through degradation, exhaustion and anticipatory terror.

52. The psychological consequences described by persons on death row and survivors of the death penalty closely mirror those identified in the updated Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), including severe emotional distress, intrusive flashbacks, avoidance behaviour, hyperarousal, insomnia, depression, dissociation, depersonalization, feelings of irreparable damage, somatic symptoms, and in some cases psychotic symptoms, substance misuse and neurocognitive impairment. Multiple accounts also describe enduring psychological injury after exoneration, including chronic anxiety, disorientation, hypervigilance and difficulty imagining a future. One survivor explained that, after release, she needed clocks to be visible in all living spaces to remain oriented in time, and felt compelled always to know where the exits were; another stated that although physically free, he remained mentally confined. These testimonies show that the harm associated with capital punishment is not confined to detention but often persists in the body, memory and daily life.

53. Relatives consistently describe the death penalty as a long process of repeated trauma rather than a single legal event. Family members spoke of “counting the days” before a scheduled execution and of the emotional toll growing heavier as the date approached. One relative asked: “What do you say to someone when they say it’s your last call?” Another described the condemned person after reprieve as someone who had “seen death”. These experiences reflect how capital punishment extends its harmful effects beyond the individual sentenced, functioning as a relational punishment imposed on families.

54. Family members described heaviness, social withdrawal, exhaustion and prolonged grief. One mother, anticipating the execution of her son, stated: “If my son leaves, I’m just going to go ahead and leave with him.” In another account, the prolonged anxiety generated by a death sentence was described as contributing to the premature death of a parent. These testimonies confirm that families do not merely witness punishment from the margins; they absorb it over time through sustained uncertainty, helplessness and grief.

55. Testimony also indicates that suffering under sentence of death may be intensified by gender-specific discrimination and institutional neglect. One woman on death row was described as having spent more than two decades in near-total isolation because no dedicated regime existed for women sentenced to death, and was said to have improvised personal grooming practices in order to “feel more human”. In another case, family members avoided public spaces to escape stigma. These accounts show how the intersection of capital punishment and gender may produce compounded isolation, humiliation and social exclusion.

56. Persons drawn into the execution process in professional or spiritual capacities also described significant psychological harm. A spiritual adviser explained that, in order to function, he had to regard the condemned person as “already dead”. Following a last-minute

reprieve, he described experiencing multiple nervous breakdowns and requiring long-term psychological support. Lawyers similarly reported moral exhaustion, with one asking simply: “How many of them do you have in you?” While not equated with the suffering of condemned persons or their families, these accounts demonstrate the wider moral and psychological injury generated by a system that requires human beings to prepare for or witness State killing.

57. Across all testimonies, consistent themes recur: prolonged psychological disintegration, daily life structured by anticipatory fear, families subjected to sustained uncertainty and helplessness, and trauma persisting beyond release or exoneration. Taken together, these accounts confirm that the suffering associated with capital punishment is neither incidental nor limited to the act of execution. It is cumulative, relational and enduring.

E. Legal analysis: incompatibility of the death penalty with the prohibition of torture and other ill-treatment, and vulnerability-related considerations

58. While article 6 of the International Covenant on Civil and Political Rights historically permitted capital punishment under narrowly circumscribed conditions, it neither qualifies nor displaces article 7 of the Covenant, nor the corresponding obligations under articles 1 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Where a punishment, by its design and implementation, foreseeably entails severe physical or mental suffering attributable to the State, its compatibility must be assessed against that absolute obligation. International and regional jurisprudence has already established that many practices routinely associated with capital punishment violate the prohibition of torture or other ill-treatment.

59. International and regional bodies have consistently treated those instruments as living instruments, to be interpreted in light of present-day conditions, subsequent agreements and practice, and developing legal standards and medical and social knowledge. That approach has already transformed the law of punishment in a closely analogous field: practices once tolerated as lawful corporal punishment have been reclassified as cruel, inhuman or degrading punishment, and in some cases torture. Against that background, the claim that execution remains categorically distinct is increasingly impossible to sustain.

60. Capital punishment operates as a State-administered trajectory of suffering under acute State control and dependency. In the interpretation developed under the torture mandate, such institutionalized powerlessness is a central contextual factor in determining when severe physical or mental suffering crosses the threshold into torture or other prohibited ill-treatment. Within this trajectory, living under sentence of death entails a continuous, individualized and official threat of State-inflicted death. International human rights law has long recognized that credible threats of death, mock executions and sustained uncertainty, when imposed under custodial conditions, may themselves constitute torture or cruel, inhuman or degrading treatment.³² Capital punishment institutionalizes such threats. The condemned person is required to structure daily existence around the foreknowledge of an intended killing by the State, often for years or decades. This prolonged anticipatory terror is not incidental to the punishment; it is intrinsic to it.

61. In the capital context, arbitrariness is not limited to erroneous outcomes or individual miscarriages of justice. Systemic deficiencies – including denial of effective legal representation, reliance on coerced confessions, stigmatizing judicial narratives, discriminatory application of the death penalty, lack of independent and impartial tribunals and absence of meaningful review – have repeatedly been characterized by international bodies³³ as rendering deprivation of liberty arbitrary. In capital cases, such arbitrariness functions as a mechanism of domination and coercion, severely curtailing the individual’s

³² [A/56/156](#), para. 8; Inter-American Court of Human Rights, *Urrutia v. Guatemala*, judgment of 27 November 2003, para. 92; and [CAT/C/IRQ/CO/2](#), paras. 30 and 31.

³³ See [A/HRC/WGAD/2021/4](#) and [A/HRC/WGAD/2024/71](#) (opinions of the Working Group on Arbitrary Detention).

ability to resist or contest the path towards execution. Where the State knowingly exposes persons to an official threat of death through such arbitrary processes, the resulting mental suffering engages the prohibition of torture or other ill-treatment independently of whether execution is ultimately carried out.

62. Conditions of detention on death row further compound the suffering. International law recognizes that prolonged or indefinite solitary confinement, severe isolation or sensory deprivation may amount to torture, particularly where imposed under conditions of uncertainty and extreme power imbalance. When such conditions are applied to persons under sentence of death, the foreknowledge of execution operates as an aggravating factor. Even in systems lacking a formal death row regime, detention conditions characterized by structural neglect, violence or deprivation may, when combined with the death sentence, generate levels of mental suffering that cross the threshold of article 7 of the International Covenant on Civil and Political Rights and violate article 10.

63. The execution stage itself supports the incompatibility between capital punishment and the prohibition of torture or other ill-treatment. Despite decades of procedural adjustment and claims of “humanization”, States have not demonstrated the ability to carry out executions without exposing individuals to a real and foreseeable risk of severe suffering at the moment of execution. Medical and forensic evidence concerning methods such as hanging, electrocution, lethal injection and nitrogen hypoxia demonstrates pain, panic, respiratory distress, pulmonary oedema, asphyxiation, prolonged suffering, or the masking rather than the elimination of pain.

64. Secrecy is a defining and structural feature of contemporary capital punishment. Concealment of execution protocols, the timing, personnel, methods, records, drug or gas sourcing and post-execution practices impedes scrutiny, prevents effective remedies and amplifies suffering. The denial of advance notice and basic information to condemned persons and their families has already been recognized as a source of inhuman treatment. In this context, secrecy is not a peripheral administrative choice but one of the mechanisms through which suffering is inflicted and accountability avoided.

65. Capital punishment also operates within, and reproduces, patterns of discrimination and structural vulnerability. It disproportionately affects the poor, racial and ethnic minorities, foreign nationals, persons with psychosocial or intellectual disabilities and individuals prosecuted in politicized or security-framed proceedings. Women may face compounded isolation, neglect and gender-specific harm on death row, particularly where detention regimes fail to account for their needs or where gendered stereotypes shape prosecution and sentencing. These patterns shape the lived reality of capital punishment and intensify exposure to coercion, arbitrariness and psychological suffering.

66. The sentence of death predictably exerts severe psychological pressure not only on the person condemned, but also on family members.³⁴ For the individual, the sentence transforms daily life into a prolonged confrontation with an official, individualized threat of death. For families, it generates years of uncertainty and repeated anticipation of loss. International human rights law has recognized that such sustained psychological pressure, where it is foreseeable and State-imposed, may amount to ill-treatment, and, in certain circumstances, torture.

67. Where the death penalty is imposed or carried out by non-State actors exercising de facto authority, or in conflict settings often marked by institutional collapse, militarized detention or summary process, the incompatibility with the prohibition of torture is even more pronounced. Proceedings conducted by bodies lacking lawful competence, independence, due process guarantees and safeguards against coercion render death sentences inseparable from arbitrariness, intimidation and severe mental suffering. In such contexts, capital punishment becomes not merely unlawful punishment, but a tool of torture or ill-treatment.

68. The assessment of torture under article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is not confined to isolated acts but requires a cumulative evaluation of the individual’s situation over time. Severe mental

³⁴ [A/HRC/59/54](#), paras. 46–50.

suffering may arise from the interaction of duration, repetition, context, vulnerability and power imbalance, even where no single element would independently meet the torture threshold. Capital punishment exemplifies a regime that demands such cumulative assessment. The continuous death threat, systemic arbitrariness, denial of effective defence, isolating or degrading detention conditions, secrecy and discrimination do not operate in isolation; they reinforce and magnify one another over time, producing extreme mental suffering attributable to the State.

69. When assessed cumulatively, these elements increasingly satisfy the constituent components of torture as defined in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: severe physical or mental suffering; intentional and foreseeable State conduct; recognized purposes including punishment, intimidation, coercion and discrimination; and extreme powerlessness under official control. International bodies have historically moved cautiously in declaring capital punishment to constitute torture *per se*. Yet the cumulative operation of these factors now demonstrates that, under contemporary conditions, death penalty regimes are structurally incompatible with the prohibition of torture and other ill-treatment.

70. A clear majority of States have abolished the death penalty in law or in practice, while a small number of States account for the overwhelming majority of executions worldwide. That concentration of executions in a shrinking minority of States, together with repeated General Assembly resolutions calling for a moratorium and the increasingly consistent characterization of capital punishment as contrary to human dignity, reflects a marked erosion of *opinio juris* supporting retention and contributes to the crystallization of an emerging customary norm.

71. The prohibition of torture and other ill-treatment is considered *jus cogens*. A punishment whose operation predictably depends on continuous death threats, arbitrariness, secrecy, discrimination, aggravated powerlessness and cumulative suffering cannot be reconciled with that norm. Assessed against contemporary standards of international law, capital punishment as a system is incompatible with the absolute and non-derogable norms pursuant to article 7 of the Covenant and with articles 1, 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Abolition is therefore not a policy preference but a legal necessity to ensure compliance with an absolute norm.

III. Conclusions and recommendations

72. On the basis of the comprehensive interdisciplinary analysis conducted in preparing the present report, and the inputs received, and in light of contemporary scientific, medical, legal and other research on the impacts of the entire death penalty trajectory, the Special Rapporteur concludes that the death penalty is always incompatible with the prohibition of torture and the protection of human dignity, and that the only reliable means of ensuring compliance with these obligations is abolition.

73. Capital punishment generates severe physical and mental suffering across its entire trajectory. That suffering is not incidental to abuse at the margins of otherwise lawful systems. It is produced by the structure of capital punishment itself: by the credible threat of execution, the coercive pressures of capital investigation and trial, prolonged death row detention, the impossibility of rendering execution humane in practice, secrecy surrounding the implementation of death sentences, and the continuing harms inflicted on families and others directly affected.

74. The risks of torture and other ill-treatment or punishment throughout the death penalty process are heightened by discrimination, poverty, disability, foreign nationality, social marginalization and political instrumentalization. These factors do not merely make capital punishment more error-prone. They show that its administration is inseparable from structural inequality and unequal exposure to severe suffering.

75. The Special Rapporteur makes the following recommendations:

(a) To abolitionist States: to reject any attempt to reintroduce the death penalty, and to support multilateral and regional efforts aimed at universal abolition.

(b) To States that maintain a moratorium, whether de jure or de facto: to formalize abolition in law, to refrain from imposing new death sentences, and to establish mechanisms to review the cases of all persons currently under sentence of death with a view to commutation, resentencing or release.

(c) To retentionist States, as an immediate matter and pending abolition:

(i) To repeal all laws authorizing capital punishment for offences that do not meet the “most serious crimes” threshold, for which the imposition of the death penalty will be arbitrary in nature;

(ii) To abolish mandatory death sentences and all sentencing structures that prevent full individualized consideration of culpability and mitigation;

(iii) To refrain from imposing new death sentences and urgently introduce a moratorium, awaiting complete abolition;

(iv) To review and repeal all death sentences imposed following proceedings tainted by torture allegations, secret or incommunicado detention, lack of due process, discrimination, or other fair trial defects;

(v) To refrain from invoking deterrence, public support or other unfounded or unreasonable grounds to justify retention.

(d) All States should ensure that criminal justice actors are made fully aware of the implications of capital punishment under international human rights law, including the fact that in capital cases the obligations under articles 6, 7, 10 and 14 of the International Covenant on Civil and Political Rights are engaged in their strictest form.

(e) States should take immediate steps to end death-row and post-execution practices described in the present report that independently engage the prohibition of torture and other ill-treatment. These measures are not a substitute for abolition. They are immediate obligations flowing from article 7 and article 10 of the International Covenant on Civil and Political Rights and from the duty to protect human dignity.

(f) Medical and mental health professionals, professional associations and regulatory bodies should prohibit and sanction participation in executions and in the medicalization of execution protocols. Private actors, including pharmaceutical companies, gas suppliers, compounding pharmacies, logistics providers and intermediaries should take all available measures to prevent their products, services or expertise from being used in executions.

(g) United Nations bodies, regional organizations and relevant special procedures should continue to clarify – in their jurisprudence, reporting and advocacy – the incompatibility between capital punishment and the prohibition of torture and other ill-treatment, and should support retentionist States in moving towards complete abolition.

Annex

Activities conducted by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Morris Tidball-Binz, from 1 April 2025 to 31 March 2026

I. Communications

1. During the period under review, the Special Rapporteur issued, individually or jointly with other mandate holders, 146 communications, to States and non-State actors, and 97 press statements.

II. Thematic reports

2. On 16 June 2025, the Special Rapporteur presented to the Human Rights Council at its fifty-ninth session his thematic report ([A/HRC/59/54](#)) on the rights of families of victims of extrajudicial, summary or arbitrary executions. In the report, he examined the consequences of unlawful killings for families from a human rights perspective, reviewed the existing definitions of “family of the victim”, and analysed the rights of families to truth, justice and reparation, including the right to mourn in dignity. He also considered circumstances that may aggravate the difficulties faced by families, including migration, armed conflict, deaths in custody, terrorism and counter-terrorism, the application of the death penalty, and situations in which family members are themselves targeted, and urged States to do more to recognize, respect and protect these rights.

3. On 22 October 2025, the Special Rapporteur presented to the Third Committee of the General Assembly his thematic report ([A/80/214](#)) on the investigation and prevention of unlawful killings by law enforcement officials. In the report, he examined the phenomenon of such killings and the means of overcoming obstacles to their reliable investigation and effective prevention, in light of international standards governing unlawful death investigations, the use of force by law enforcement officials and the protection of the right to life. He also analysed operational contexts in which law enforcement activity poses a heightened risk of unlawful killings, identified common impediments to accountability, and highlighted examples of good practice from diverse jurisdictions to support practical recommendations. In presenting the report, he urged States to adopt “zero tolerance” policies grounded in those best practices and offered the mandate’s assistance for the implementation of the report’s recommendations.

III. Country visits

4. From 29 September to 10 October 2025, the Special Rapporteur conducted an official country visit to Lebanon. The objective was to examine violations of the right to life in the context of Israeli hostilities on Lebanese territory, including allegations of unlawful killings resulting from Israeli strikes and attacks against civilians and civilian objects protected under international humanitarian law, and to assess the adequacy of the legislative and institutional framework for their documentation, investigation and prosecution, as well as measures to support victims and their families in seeking truth, justice and reparation. The report concluded that the persistence of killings and serious injuries in the context of hostilities, together with recurrent obstacles to effective investigation and victim support, underscored the urgent need to strengthen Lebanon’s capacity to prevent, investigate and prosecute potentially unlawful deaths and to ensure victims’ rights to truth, justice and reparation.

5. The Special Rapporteur was regrettably unable to undertake a second country visit in 2025 due to the regular budget liquidity crisis impacting the United Nations.

IV. Technical advisory and capacity building activities (in-person), including:

6. From 23 to 24 April 2025, the Special Rapporteur travelled to Strasbourg, France, on invitation from the Parliamentary Assembly of the Council of Europe to participate in a conference on missing migrants, refugees and asylum seekers. At the conference, attended by parliamentarians, experts, civil society organizations and relatives of missing migrants, he called for legal reforms to make the identification and dignified management of unidentified decedents, including migrants, an obligation of results rather than merely an obligation of means. He also met with the Head of the Human Rights and Biomedicine Division of the Council of Europe to discuss practical steps for implementing recommendations relating to the investigation of potentially unlawful deaths of migrants in line with the Minnesota Protocol.

7. From 27 April to 4 May 2025, the Special Rapporteur travelled to Chicago, United States of America, in the context of his cooperation with the University of Chicago. During the visit, he finalized an academic article on the protection of the dead under international human rights law for the International Review of the Red Cross and held consultations with faculty and students supporting academic research for the mandate. He also discussed future work on guidelines relating to the respect for and protection of the dead.

8. From 7 to 9 May 2025, the Special Rapporteur travelled to Milan, Italy, on invitation from the University of Milan to participate in an event marking the tenth anniversary of the April 2015 shipwreck off the coast of Libya in which nearly 900 migrants died. The event provided an opportunity to highlight the lessons learned from the recovery and identification efforts led by LABANOF as a model of best practice and to raise awareness of the continuing tragedy of dead and missing migrants in the Mediterranean Sea.

9. From 27 July to 1 August 2025, the Special Rapporteur travelled to Dhaka, Bangladesh, to assess the needs and feasibility for capacity-building on the use of the Minnesota Protocol in the investigation of potentially unlawful deaths and enforced disappearances. He met with representatives of the Ministries of Foreign Affairs, Home Affairs and Health, the police and criminal investigation authorities, prosecutors, the Commission of Inquiry into Enforced Disappearances, forensic practitioners, civil society organizations, diplomatic representatives and United Nations agencies; held a two half-day workshop on the Minnesota Protocol with around 30 practitioners; and visited forensic facilities. The visit confirmed significant structural needs to strengthen the country's medico-legal death investigation system, as well as broad interest in dissemination, training and implementation of the Minnesota Protocol, including in relation to complex cases and possible future exhumations.

10. From 31 August to 6 September 2025, the Special Rapporteur travelled to Quito and Guayaquil, Ecuador, to promote the Minnesota Protocol and assess the need, feasibility and relevance of specialized practical training on its use. He met with authorities and technical personnel from the National Service of Legal Medicine and Forensic Sciences, police services, prosecutors and judges, as well as with civil society organizations, community leaders, victims' relatives and academic representatives; delivered presentations on the Minnesota Protocol and a lecture at the Catholic University of Guayaquil; and held consultations with diplomatic and United Nations representatives. The visit confirmed the need, pertinence and timeliness of the requested training and helped lay the groundwork for two practical workshops envisaged for 2026.

11. From 7 to 11 September 2025, the Special Rapporteur travelled to Bournemouth, United Kingdom of Great Britain and Northern Ireland, on invitation from the Bournemouth University-led Mass Grave Protection, Investigation and Engagement Project, of whose Steering Group he is a member. He participated in the Steering Group's annual meeting and in an expert convening on mass graves linked to migration and trafficking, bringing together nearly 30 specialists from different disciplines. Discussions focused on the status and possible revision of the Bournemouth Protocol on Mass Grave Protection and Investigation, including its application to deaths and disappearances of migrants and refugees; the Special Rapporteur emphasized the importance of highlighting the intersections between the

Bournemouth Protocol and the Minnesota Protocol. He also discussed possible academic contributions to the development of the mandate's guidelines on the protection of the dead.

12. From 19 to 23 October 2025, on the sidelines of his participation to the eightieth session of the General Assembly, in New York, the Special Rapporteur participated in a side event on the development of guidance for the investigation of femicide, which was organized by the Permanent Mission of Sweden and co-sponsored by the Permanent Missions of Finland and Spain. The event was well attended by States, United Nations entities and non-governmental organizations and confirmed the need and relevance of the femicide guidelines.

13. From 3 to 6 November 2025, the Special Rapporteur travelled to Amman, Jordan, on a visit to provide technical assistance. In particular, to assess the feasibility of a project for the regional promotion of and training on the Minnesota Protocol. The visit, which was welcomed by the Government, the United Nations and other stakeholders, confirmed strong support from national institutions and interest from international partners, including the International Committee of the Red Cross and a potential donor, for a regional initiative based on Jordan's medico-legal capacity and teaching infrastructure. The mission also identified the need for a follow-up planning meeting in early 2026 to define a roadmap, expected outputs, responsibilities and resource requirements for implementation.

14. From 24 to 30 November 2025, the Special Rapporteur visited Bangkok, Thailand, on invitation from the OHCHR Regional Office for South-East Asia. The main purpose of his travel was to provide technical and academic assistance for a national workshop on the Minnesota Protocol and the Istanbul Protocol, organized jointly by the OHCHR, the Ministry of Justice and its Central Institute of Forensic Science, with the participation of officials from different investigative agencies. During the visit, the Special Rapporteur also participated in a briefing for the Attorney General's Office on the application of both Protocols in prosecutorial practice, met with civil society organizations, and held discussions with the Ministry of Justice on ways to strengthen the practical and institutional implementation of the Protocols, including through possible regulatory guidance for their use in investigations, notably in cases of deaths in custody. The visit confirmed the strong value of practical, user-oriented training and the need for continued dissemination, guidance and capacity-building to support sustainable implementation of both Protocols in Thailand.

15. From 30 November to 3 December 2025, the Special Rapporteur travelled to Kuala Lumpur, Malaysia, to discuss, garner continued support for, and help define the follow-up to the initiative launched in 2024 for the creation of a regional hub for the promotion and training of the Minnesota Protocol in South-East Asia. During his visit, he met with representatives of the Ministries of Home Affairs, Health and Foreign Affairs, the Royal Malaysia Police, the Human Rights Commission of Malaysia (SUHAKAM), civil society organizations and members of the diplomatic community. The discussions confirmed the importance of securing a formal commitment for hosting the hub in the future National Institute of Forensic Medicine in Kuala Lumpur and of defining its principal functions, including the promotion of the Minnesota Protocol in local languages, specialized regional training for practitioners, and research on its use and implementation. The visit helped consolidate governmental and diplomatic support for the initiative and underscored its potential to strengthen forensic best practices and human rights protection in the region.

16. From 10 to 19 February 2026, the Special Rapporteur travelled to New Orleans, Chicago, Oklahoma City and Minneapolis-Saint Paul, United States of America. In New Orleans, he attended the seventy-eighth annual meeting of the American Academy of Forensic Sciences, where he spoke about the mandate and the Minnesota Protocol and received the Academy's Clyde Snow Humanitarian and Human Rights Award. In Oklahoma City and Chicago, together with the Office of the High Commissioner for Human Rights and academic partners, he met representatives of Witness to Innocence, interviewed death penalty exonerees, relatives, spiritual advisers and lawyers, and participated in academic activities and research for the mandate's forthcoming thematic work on the death penalty and torture and on guidance for the protection of the dead. In Minnesota, he lectured on the Minnesota Protocol and met civil society representatives and public officials to advise on its use in efforts to investigate recent killings by federal law enforcement and immigration officers.

17. From 23 February to 1 March 2026, the Special Rapporteur travelled to Manila, Philippines, to follow-up on earlier activities carried out in the framework of the Philippines-United Nations Joint Programme on technical cooperation for the protection and promotion of human rights. He participated in the launch of the country's first master's training programme in forensic medicine, organized by the University of the Philippines together with Monash University, which is intended to help build sustainable national medico-legal capacity in line with the Minnesota Protocol; met lecturers, United Nations entities, members of the diplomatic community, civil society organizations and senior government officials; and encouraged continued support for the establishment of a reliable medico-legal death investigation system and the completion of the necessary institutional and legal reforms. During the visit, he also provided expert advice on the draft Act for the Philippine National Forensic Authority.

18. From 15 to 25 March 2026, the Special Rapporteur travelled to Quito and Guayaquil, Ecuador, to deliver two specialized practical courses on the use of the Minnesota Protocol, prepared following his September 2025 visit and in response to a longstanding request from the National Service of Legal Medicine and Forensic Sciences. Together with Professor Michael Pollanen and Dr. Tania Delabarde, both members of the mandate's Forensic Advisory Group, he provided intensive hands-on training in autopsy practice, anthropological analysis and case assessment to forensic and medico-legal practitioners, while introductory sessions also brought together police officers, prosecutors, judges, public defenders and civil society representatives. During his visit, he additionally met diplomatic and United Nations representatives, senior officials of the Ministry of Foreign Affairs, prosecutors and civil society organizations, and provided technical advice on ongoing investigations. The strong interest generated by the courses confirmed their relevance and led national counterparts to request their continuation as part of efforts to institutionalize the application of the Minnesota Protocol and develop training-of-trainers capacity.

V. Other activities, including standards development and public engagement

19. Throughout 2025, the mandate led or supported several standard-setting initiatives. As reflected in the summary of activities provided, SUMEX led the drafting of guidance for the investigation of femicide, including two in-person expert consultations in Paris in April 2025 and Geneva in December 2025; launched, with the University of Chicago and the University of Minnesota, research and drafting on guiding principles for the protection of deceased persons in September 2025; supported the OHCHR-led drafting of guidelines on the investigation of unlawful deaths of LGBTIQ+ persons; and contributed to the updating of the Bournemouth Protocol on Mass Grave Protection and Investigation.

20. On 25 September 2025, the mandate participated in a Human Rights Council side event in Geneva entitled "Forensic Science and Human Rights: Voices from the Field". It also took part that day in a meeting with the African Commission on Human and Peoples' Rights on the way forward for the Addis Ababa Plan of Action and remained engaged in the work of the Forensic Advisory Group during 2025.