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## Human Rights Council

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**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## Question of the death penalty

### Report of the Secretary-General

#### *Summary*

The present report contains information on the question of the death penalty, and reports that the international community as a whole is moving towards the abolition of the death penalty in law or in practice. Nevertheless, a small number of States have continued to use the death penalty and in many instances, international standards guaranteeing the protection of the rights of those facing the death penalty were not fully respected. The report also discusses the continued difficulties in gaining access to reliable information regarding executions, and issues related to the human rights of children of parents sentenced to the death penalty or executed.

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## I. Introduction

1. Pursuant to Human Rights Council decision 18/117, the present report is submitted in order to update previous reports on the question of the death penalty, including the last quinquennial report of the Secretary-General (E/2010/10 and Corr.1 and 2) and reports submitted to the Council (A/HRC/4/78, A/HRC/8/11, A/HRC/12/45, A/HRC/15/19, A/HRC/18/20 and A/HRC/21/29). As requested by Human Rights Council resolution 22/11, the report also includes information on the human rights of children of parents sentenced to the death penalty or executed.

2. The present report covers the period from June 2012 to May 2013 and is based on information received from States and other available sources, including national human rights institutions, United Nations agencies, international and regional bodies and non-governmental organizations.

## II. Changes in law and practice

3. Changes in law include new legislation abolishing or reinstating the death penalty, restricting or expanding its scope, as well as ratifications of international and regional human rights treaties that provide for the abolition of the death penalty. Changes in practice cover mainly non-legislative measures reflecting a new approach regarding the use of the death penalty.

### A. Member States that have abolished the death penalty for all crimes

4. More than 150 of the 193 Member States of the United Nations have abolished the death penalty or introduced a moratorium, either in law or in practice.<sup>1</sup> 174 of the 193 Member States reportedly were execution-free in 2012.<sup>2</sup>

5. During the reference period, Benin repealed death penalty provisions in its Criminal Procedure Code. In the United States of America, the State of Maryland adopted a law abolishing the death penalty, thus becoming the 18th State in the country to do so.

### B. Member States that have restricted the scope of the death penalty or are limiting its use

6. Even in countries where the application of the death penalty remains, some noticeable initiatives towards restricting its use were recorded during the reporting period.

7. In January 2013, amendments to the Criminal Procedure Law of the People's Republic of China came into force, authorizing the Supreme People's Court to amend death sentences in all cases. The amendments also make it mandatory to record or videotape interrogations of individuals potentially facing the death penalty or life imprisonment. The

<sup>1</sup> The International Commission against the Death Penalty released a new report entitled "How States abolish the death penalty", which reviews the processes towards abolition of capital punishment by analysing the experiences of 13 States. Drawing on these lessons and experiences, it provides guidance to States on how to abolish the death penalty. Available at: <http://www.icomdp.org/cms/wp-content/uploads/2013/04/Report-How-States-abolition-the-death-penalty.pdf>.

<sup>2</sup> Amnesty International, *Death Sentences and Executions in 2012* (London, 2013), p. 7.

National Human Rights Action Plan of China (2012-2015) includes measures aimed at strengthening safeguards in all death penalty cases.

8. Singapore adopted the Misuse of Drugs (Amendment) Act (2012) and the Penal Code (Amendment) Act (2012), both of which abolish the mandatory death penalty in certain circumstances.

9. In the United States of America, the State of Texas adopted a law, known as the “Michael Morton Act”, requiring prosecutors to open files for defendants and keep records of the evidence disclosed in the death penalty cases. The Act aims at preventing wrongful convictions by stopping prosecutors from suppressing evidence.<sup>3</sup>

**C. Member States that have ratified or committed to ratifying international and regional instruments providing for the abolition of the death penalty**

10. As of June 2013, 76 States had ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.<sup>4</sup> Benin and Latvia acceded to the Second Optional Protocol. Madagascar signed the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR).

11. On 17 April 2013, the Plurinational State of Bolivia adopted a law for the ratification of the Second Optional Protocol to the ICCPR.<sup>5</sup> Armenia reported that an intergovernmental procedure was under way for the ratification of the Second Optional Protocol to the ICCPR.

**D. Member States that have introduced a moratorium on executions**

12. During the reference period, Singapore observed a short moratorium on executions pending a decision on legislative amendments to its death penalty law.

**E. Member States that have reintroduced the use of the death penalty, extended its scope or resumed executions**

13. Bangladesh adopted the Human Trafficking Prevention and Suppression Act (2012) authorizing the use of the death penalty as the most severe punishment for organized trafficking in human beings.<sup>6</sup> Kenya adopted the Defence Forces Act 2012,<sup>7</sup> which allows the imposition of the death penalty against members of defence forces for a range of offences.<sup>8</sup> India adopted the Criminal Law (Amendment) Act 2013, which authorizes the use of the death penalty for “repeat rape-offenders” or for rape attacks that result in the

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<sup>3</sup> See <http://governor.state.tx.us/news/press-release/18521>.

<sup>4</sup> See [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-12&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4&lang=en).

<sup>5</sup> *Ley N° 358, de 17 de abril de 2013, por la que se decreta la ratificación del Segundo Protocolo Facultativo del Pacto Internacional de Derechos Civiles y Políticos, destinado a abolir la pena de muerte*; See CAT/C/BOL/CO/2, para. 6(b).

<sup>6</sup> Section 7, Act No. III of 2012.

<sup>7</sup> Kenya Defence Forces Act No. 25 of 2012.

<sup>8</sup> *Ibid.*, sections 58-64, 72-73, 133.

victim's death.<sup>9</sup> Papua New Guinea adopted a law which provides for the reimplementation of the death penalty and extends its application to crimes of killings for sorcery, aggravated rape and robbery.

14. Some States also introduced new legislation expanding the use of the death penalty for terrorism-related crimes. Nigeria adopted an amendment to its terrorism prevention law that prescribes the death penalty as punishment for a wide range of acts of terrorism.<sup>10</sup> In the United States of America, the State of Mississippi adopted a new law which added acts of terrorism to the list of crimes that could lead to the application of death penalty.<sup>11</sup>

### III. Data on the use of the death penalty

15. In its resolution 67/176 (2012) on moratorium on the use of the death penalty, the General Assembly calls upon all States "To make available relevant information with regard to their use of the death penalty, *inter alia*, the number of persons sentenced to death, the number of persons on death row and the number of executions carried out, which can contribute to possible informed and transparent national and international debates, including on the obligations of States pertaining to the use of the death penalty".

16. As noted by the Secretary-General in previous reports,<sup>12</sup> up-to-date and accurate global figures on the application of the death penalty are difficult to obtain. This difficulty arises from the continued lack of transparency on the part of some Governments concerning the number and characteristics of individuals executed. The lack of transparency in death penalty cases is compounded in countries that have been affected by conflicts, where it may not be possible to obtain sufficient information to confirm the number of executions that may have taken place. Furthermore, the data on the use of the death penalty continues to be classified as a State secret in some States and the disclosure of such information considered a criminal offence.

17. The Human Rights Committee continued to call upon States to take all necessary measures to guarantee accessibility of information on the death penalty.<sup>13</sup> The Committee against Torture expressed deep concerns over the conditions of detention of prisoners on death row in Japan, with respect, *inter alia*, to the unnecessary secrecy and uncertainty surrounding the execution of prisoners sentenced to death. It noted that refusing to provide convicted persons and their family members advance notice of the date and time of execution is a clear human rights violation (CAT/C/JPN/CO/2, paragraph 15).<sup>14</sup>

18. The Special Rapporteur on extrajudicial, summary or arbitrary executions called on several States, including the Gambia and Iraq, to refrain from executing in secrecy.<sup>15</sup>

<sup>9</sup> Act No. 13 of 2013, 2 April 2013, available at [http://egazette.nic.in/WriteReadData/2013/E\\_17\\_2013\\_212.pdf](http://egazette.nic.in/WriteReadData/2013/E_17_2013_212.pdf).

<sup>10</sup> Terrorism (Prevention)(Amendment) Act 2013.

<sup>11</sup> Senate Bill 2223, It takes effect July 1 2013.

<sup>12</sup> A/HRC/4/78, A/HRC/8/11, A/HRC/12/45, A/HRC/15/19, A/HRC/18/20, A/HRC/21/29.

<sup>13</sup> E.g. *Vladislav Kovalev et al. v. Belarus*, Communication No. 2120/2011, views adopted on 29 October 2012, UN doc. CCPR/ C/106/D/2120/2011, 27 November 2012 (paras. 11.2-11.10); see also *Toktakunov v. Kyrgyzstan*, 1470/2006, A/67/40 (2012) (Vol.1) p. 115.

<sup>14</sup> See also E/CN.4/2006/53/Add.3, para.32.

<sup>15</sup> See "Death Row / Gambia: 'Stop arbitrary stream of executions,' says UN expert". Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12461&LangID=E>; "UN expert calls for immediate halt to executions and surrounding secrecy in Iraq". Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12395&LangID=E>.

#### IV. Enforcement of the death penalty

19. In 2012, an increased number of Member States of the United Nations supported the adoption of the fourth General Assembly resolution (A/67/176) on moratorium on the use of the death penalty.<sup>16</sup> However, despite an encouraging international trend towards the universal abolition of the death penalty, a small number of States continue to use it. Reportedly, executions were carried out in at least 21 countries during the review period.

20. According to Amnesty International, at least 23,386 people remained under death sentence at the end of 2012 and at least 682 people were executed worldwide during that year, excluding China. In addition, 1,722 individuals were reportedly sentenced to death in 58 countries.<sup>17</sup>

21. During the period under review, some States with a long-standing de facto moratorium resumed imposing the death penalty and carried out executions. After 27 years without any executions, the Gambia executed nine individuals in August 2012. In India, one execution was carried out in November 2012. This was India's first execution since 2004. Pakistan carried out its first execution since 2007, also in November 2012, when its military authorities executed a soldier. In Indonesia, no execution took place between 2008 and 2012, but in March 2013, one person was executed for drug-related crimes, and three more were executed in May 2013. These executions took place at a time when the use of the death penalty was under review by Indonesia's national courts, and a public debate was ongoing in the country. Indonesia's Attorney General also announced that 20 prisoners convicted and sentenced to death would be executed in 2013.<sup>18</sup>

#### V. Application of safeguards guaranteeing protection of the rights of those facing the death penalty

22. The norms and standards protecting the rights of those facing the death penalty are set out in international human rights law, in particular at article 6 of the International Covenant on Civil and Political Rights and article 37 (a) of the Convention on the Rights of the Child. Furthermore, in an annex to its resolution 1984/50, the Economic and Social Council set out minimum international standards that provide safeguards for guaranteeing protection of the rights of those facing the death penalty.<sup>19</sup>

23. The Special Rapporteur on extrajudicial, summary or arbitrary executions submitted a report on "Extrajudicial, summary or arbitrary executions" to the General Assembly in 2012 (A/67/275) which states, *inter alia*, that "in States in which the death penalty continues to be used, international law imposes stringent requirements that must be met for it not to be regarded as unlawful". In its resolution 67/168, the General Assembly called on States to take into account the recommendations made by the Special Rapporteur in his reports regarding the need to respect all relevant safeguards and restrictions.

<sup>16</sup> In December 2012, General Assembly resolution A/67/176 on "moratorium on the use of the death penalty" was adopted with a recorded vote of 111.

<sup>17</sup> Amnesty International, *op. cit.*, p. 8-9.

<sup>18</sup> See "UN human rights expert urges Indonesian authorities to stop executions"; Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13188&LangID=E>.

<sup>19</sup> The Commission on Human Rights, in its resolution 2005/59, reaffirmed the importance of the safeguards, as did the General Assembly in its resolutions 62/149, 63/168, 65/206 and 67/176.

## A. Restriction of use of the death penalty to “most serious crimes”

24. Article 6, paragraph 2, of the International Covenant on Civil and Political Rights prescribes that in States that have not abolished it, the death penalty may only be imposed for the “most serious crimes”. This term has been interpreted to mean that the death penalty should only be applied to the crime of murder or intentional killing. The application of this safeguard in recent years has focused on the use of the death penalty for acts that do not meet the threshold of “most serious crimes”. In particular, the use of the death penalty for drug-related offences, economic crimes, political crimes, adultery, and offences relating to consensual same-sex relationships, is a violation of article 6, paragraph 2, and of the safeguards guaranteeing protection of the rights of those facing the death penalty.<sup>20</sup>

25. The European Union (EU) adopted in April 2013 new revised and updated Guidelines on the Death Penalty.<sup>21</sup> These guidelines have made a number of key clarifications to the minimum standards for States that still maintain the use of the death penalty, including narrowing the definition of “most serious crimes”, while continuing to emphasize the EU’s strong opposition to the death penalty and advocating for its full abolition. The guidelines state that the death penalty must not be imposed for “non-violent acts”, and economic, political and drug-related crimes have been added to the list of offences that the death penalty should not be imposed for.<sup>22</sup>

### 1. Use of the death penalty for drug-related offences

26. In accordance with the Human Rights Committee, drug-related offences do not meet the threshold of “most serious crimes”.<sup>23</sup> Nevertheless, 33 countries or territories continue to retain the death penalty for drug-related offences in their legislation, though only a few of these countries actually impose and enforce this punishment.<sup>24</sup>

27. During the reference period, the United Nations Special Rapporteur on the situation of human rights in the Islamic Republic of Iran continued to raise concerns about the use of capital punishment in the country, including for crimes such as alcohol consumption and drug trafficking, which do not constitute serious crimes by international standards (A/67/369, paragraph 56). Reportedly, executions for drug-related offences also took place and people were sentenced to death for such offences in several States, including China, Indonesia, Malaysia, Singapore, Thailand, Saudi Arabia, the United Arab Emirates and Yemen.<sup>25</sup>

28. Human rights organizations expressed concerns about the international funding and technical assistance for drug control programmes in States that retain the death penalty for drug-related offences.<sup>26</sup> According to these organizations, there is no persuasive evidence

<sup>20</sup> See Human Rights Committee, concluding observations: Thailand, CCPR/CO/84/THA, para. 14, concluding observations; Sudan, CCPR/C/SDN/CO/3, para. 19. See also Economic and Social Council resolution 1984/50; General Assembly resolution 39/118.

<sup>21</sup> See <http://register.consilium.europa.eu/pdf/en/13/st08/st08416.en13.pdf>.

<sup>22</sup> The previous list included only financial offences, religious practices or expression of conscience, and sexual relations between consenting adults.

<sup>23</sup> A/50/40 Vol. I, para. 449; A/55/40 (Vol. I), para. 464.

<sup>24</sup> Harm Reduction International, “The Death Penalty for Drug Offences: Global Overview 2012, Tipping the Scales for Abolition”. Available at: [http://www.ihra.net/files/2012/11/27/HRI\\_-\\_2012\\_Death\\_Penalty\\_Report\\_-\\_FINAL.pdf](http://www.ihra.net/files/2012/11/27/HRI_-_2012_Death_Penalty_Report_-_FINAL.pdf).

<sup>25</sup> Amnesty International, *op. cit.*, p. 20, 21, 22, 26 and 37.

<sup>26</sup> “The Death Penalty for Drug Offences: Global Overview 2012 – Tipping the Scales for Abolition” see <http://www.ihra.net/contents/1290>; see also “Iran Human Rights and World Coalition against the

that the death penalty contributes more than any other punishment to eradicating drug trafficking or any other drug-related offences.<sup>27</sup>

29. In his report to the General Assembly, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions emphasized that clear guidelines are needed to help States to engage in cooperative drug control efforts without departing from the human rights framework, including international standards on the use of death penalty (A/67/275, paragraphs 84-86).

30. Such guidelines are also being explicitly sought by regional organizations that are major donors with regard to drug control efforts. For example, in its December 2010 resolution on the European Union's annual report on human rights and democracy in the world, the European Parliament called upon the European Commission to develop guidelines governing international funding for country-level and regional drug enforcement activities.<sup>28</sup>

31. The European Union emphasized that "actions, such as legal, financial or other technical assistance to third countries, should not contribute to the use of the death penalty".<sup>29</sup>

32. The United Nations Office on Drugs and Crime (UNODC) published a position paper in 2012 articulating its position on the promotion and protection of human rights as part of its work. Taking note of applicable international norms and standards, it stated that if "a country actively continues to apply the death penalty for drug offences, UNODC places itself in a very vulnerable position vis-à-vis its responsibility to respect human rights if it maintains support to law enforcement units, prosecutors or courts within the criminal justice system". It further noted that "at the very least, continued support in such circumstances can be perceived as legitimizing government action. If, following requests for guarantees and high-level political intervention, executions for drug-related offences continue, UNODC may have no choice but to employ a temporary freeze or withdrawal of support".<sup>30</sup>

## 2. Use of the death penalty for other crimes not involving intentional killings

33. The continued use of the death penalty for other crimes not involving intentional killings – such as economic and political crimes, robbery, blasphemy, witchcraft and sorcery – that do not constitute "most serious crimes" under international human rights law remains a particular concern. The Islamic Republic of Iran continued to use the death penalty for so-called crimes of "*Moharebeh*" ("enmity against God").<sup>31</sup> In June 2012, four individuals were executed for "*Moharebeh*" in connection with alleged crimes committed

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Death Penalty", "Annual Report on the Death Penalty in Iran 2012", France, 2013; available at <http://iranhr.net/spip.php?article2740>.

<sup>27</sup> Submission of Harm Reduction International to the Secretary General's report on the question of the death penalty dated 4 April 2013. See also Harm Reduction International, "Partners in Crime: International Funding for Drug Control and Gross Violations of Human Rights", available at [http://www.ihra.net/files/2012/06/20/Partners\\_in\\_Crime\\_web1.pdf](http://www.ihra.net/files/2012/06/20/Partners_in_Crime_web1.pdf).

<sup>28</sup> Resolution 2007/2274(INI) of the European Parliament.

<sup>29</sup> See "European Union Guidelines on the Death Penalty" (2013). Available at <http://register.consilium.europa.eu/pdf/en/13/st08/st08416.en13.pdf>.

<sup>30</sup> UNODC, "UNODC and the Promotion and Protection of Human Rights", p.10, available at [www.unodc.org/documents/justice-and-prison-reform/UNODC\\_HR\\_position\\_paper.pdf](http://www.unodc.org/documents/justice-and-prison-reform/UNODC_HR_position_paper.pdf).

<sup>31</sup> "*Moharebeh*" is aimed at armed insurrection, or more generally, the resort of armed and violent activities. Anyone found responsible for taking up arms, whether for criminal purposes or against the State, or even belonging to an organization taking up arms against the State, may be considered guilty of "enmity against God".



during the widespread political protests in Khuzestan in the south-west region of the Islamic Republic of Iran in 2011. In a joint statement issued in January 2013, a group of special procedure mandate holders of the Human Rights Council urged the Iranian authorities to halt the execution of five individuals belonging to the Ahwazi community who were at imminent risk of execution for charges including “*Moharebeh*”, “*Mufsid-fil-Arz*” (“corruption on Earth”) and spreading propaganda against the system.<sup>32</sup>

34. The Human Rights Committee regretted that Kenya imposes the death penalty for crimes such as robbery with violence, which do not qualify as “most serious crimes” within the meaning of article 6, paragraph 2 of the Covenant (CCPR/C/KEN/CO/3, paragraph 10). The Committee against Torture remained concerned about the high number of offences that carry the death penalty in Cuba, including common crimes and vaguely defined categories of State security-related offences (CAT/C/CUB/CO/2, paragraph 14).

35. In March 2013, the High Commissioner for Human Rights strongly condemned the execution of seven individuals in Saudi Arabia who were charged with organizing a criminal group, armed robbery and breaking into jewellery stores. The High Commissioner noted that such executions clearly violated international safeguards which stipulated that capital punishment may be imposed only for “the most serious crimes” and only after the most rigorous judicial process.<sup>33</sup>

36. The Special Rapporteur on freedom of religion or belief reported that persons belonging to religious minorities are frequently exposed to increased risks of criminalization and accusations of “blasphemy”, which in some countries carry harsh sanctions, including the death penalty (A/HRC/22/51, paragraph 53). The Special Rapporteur also reported that, in various regions of the world, converts are confronted with difficulties when trying to live in conformity with their convictions. Some States have criminal laws that impose the death penalty for acts of conversion (A/67/303, paragraph 36; A/HRC/22/51, paragraph 53).

37. In 2012, individuals were reportedly charged in Pakistan for offences relating to religion, including under the “blasphemy” provisions of the Penal Code punishable by the death penalty.<sup>34</sup> In the Islamic Republic of Iran, a Christian pastor who was sentenced to death for crime of “apostasy from Islam” in 2011 was retried, but finally acquitted in September 2012.<sup>35</sup>

38. The use of the death penalty in counter-terrorism cases is also a serious concern. Several States continued to use the death penalty for a broad range of acts related to crimes of terrorism which may not meet the threshold of “most serious crimes”. The Government of Iraq maintained that it only executed individuals who committed terrorist acts or other serious crimes against civilians, and who were convicted under the Anti-Terrorism Law No. 13 of 2005. However, the broad scope and wide application of article 4 of the Anti-Terrorism Law of Iraq remains a serious concern, since it envisages the death penalty for a wide range of terrorism-related acts, not all of which meet the threshold of “most serious crimes”.

<sup>32</sup> See “Iran: UN rights experts urge Government to halt the execution of five Ahwazi activists”. Available at

[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12952&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12952&LangID=E).

<sup>33</sup> See “Pillay says Saudi Arabian executions violate international standards”. Available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13139&LangID=E>.

<sup>34</sup> “State of Human Rights in 2012”, Human Rights Commission of Pakistan, Lahore, 2013; available at <http://hrnp-web.org/hrnpweb/wp-content/pdf/AR2012.pdf>, p.49, 55.

<sup>35</sup> Amnesty International, *op. cit.*, p. 33.

39. The United Nations Political Office in Somalia reported that military courts in Puntland and Somaliland continued to impose the death penalty against individuals accused of a broad range of crimes provided under their anti-terrorism laws. For instance, in March 2013, the Nugaal Military Court in Puntland sentenced to death two men who were accused of possession of explosives, wires and detonators under Section 7 of the Puntland Anti-Terrorism Law of 2010. In April 2013, the military authority in Puntland executed 13 individuals suspected of links with a terrorist organization.

### 3. Mandatory use of the death penalty

40. In accordance with international human rights jurisprudence, the mandatory use of the death penalty is not compatible with the limitation of capital punishment to the “most serious crimes”.<sup>36</sup> However, mandatory death sentences continued to be imposed in Barbados, India, Malaysia, Maldives, Pakistan, Singapore, Thailand, and Trinidad and Tobago.<sup>37</sup>

41. During the period under review, human rights treaty bodies continued to address the issue of mandatory death penalty. For instance, the Human Rights Committee recommended that Maldives remove mandatory death penalties from its statute (CCPR/C/MDV/CO/1, para.13).

42. In October 2012, the High Court of Lagos in Nigeria ruled that the mandatory imposition of the death penalty was unconstitutional. The Court declared that “the prescription of mandatory death penalty for offences such as armed robbery and murder contravenes the right of the applicants to dignity of human person and their right not to be subjected to inhuman or degrading punishment under S.34 of the constitution of the Federal Republic of Nigeria, 1999”.<sup>38</sup>

43. In January 2013, the High Court at Kisumu in Kenya ruled that the death penalty for robbery with violence and attempted robbery with violence should be interpreted as a discretionary, and not a mandatory, sentence. The Court held that the mandatory death sentence does not provide the individual concerned with an opportunity to mitigate and therefore attain a fair trial.<sup>39</sup>

44. In Uganda, a bill is reported to have been proposed to amend the Penal Code Act, the Anti-Terrorism Act and the Uganda Peoples Defence Forces Act, which impose mandatory death penalty sentences. Efforts are also currently underway to develop sentencing guidelines intended to facilitate the exercise of judicial sentencing powers. In particular, the draft Guidelines include special rules of mitigation and encourage the death sentence to be issued only in exceptional circumstances.

<sup>36</sup> See *Rolando v. Philippines* (CCPR/C/82/D/1110/2002, para. 5.2); *Rayos v. Philippines* (CCPR/C/81/D/1167/2003, para. 7.2); *Hussain and Singh v. Guyana* (CCPR/C/85/D/862/1999, para. 6.2); *Chisanga v. Zambia* (CCPR/C/85/D/1132/2002, para. 7.4); *Chan v. Guyana* (CCPR/C/85/D/913/2000, para. 6.5); *Larrañaga v. Philippines* (CCPR/C/87/D/1421/2005, para. 7.2); *Persaud and Rampersaud v. Guyana* (CCPR/C/86/D/812/1998/Rev.1, para. 7.2); *Weerawansa v. Sri Lanka* (CCPR/C/95/D/1406/2005, para. 7.2).

<sup>37</sup> Amnesty International, *op. cit.*, p. 11.

<sup>38</sup> *James Ajulu & others v. Attorney General of Lagos State*, Suit No. ID/76M/2008, October 2012

<sup>39</sup> *Ayub Bainito & others v. Attorney General of Kenya*, Petition No.2 of 211 in the High Court of Kenya at Kisumu, Republic of Kenya; judgement issued on 28 January 2013.

## B. Fair trial guarantees

45. Pursuant to Article 6(2) of ICCPR, the death penalty can only be imposed in accordance with laws which are “not contrary to the provisions of the present Covenant” and “pursuant to a final judgment rendered by a competent court”. During the reporting period, human rights treaty bodies continued to address issues of fair trial standards relating to the death penalty in their dialogue with State parties during the consideration of their periodic reports. For instance, in June 2012, the Committee against Torture expressed its serious reservations as to whether Cuba respected due process guarantees, such as the detainees’ right to have adequate time and facilities to prepare their defence and to communicate with counsel of their choosing, in the last three executions that were carried out after a summary procedure in 2003. The Committee urged Cuba to respect the international norms established in the Safeguards guaranteeing protection of the rights of those facing the death penalty (CAT/C/CUB/CO/2, para.14). In May 2013, the Committee urged Japan to guarantee effective assistance by legal counsel for death row inmates at all stages of the proceedings, and the strict confidentiality of all meetings with their lawyers (CAT/C/JPN/CO/2, paragraph 15).

46. The High Commissioner for Human Rights has continued to express concerns about the lack of a fair trial in death penalty cases in a number of States. For instance, referring to reports in November 2012 about the imminent execution of eight people in Afghanistan, the High Commissioner emphasized that “those accused of capital offences must be effectively assisted by a lawyer at all stages of the proceedings. Furthermore, executions should not take place when an appeal or other recourse is pending, and there must be the possibility for the individual concerned to seek pardon or commutation of the sentence.”<sup>40</sup> With regard to executions in Iraq in April 2013, the High Commissioner noted that “the criminal justice system in Iraq was still not functioning adequately, with numerous convictions based on confessions obtained under torture and ill-treatment, a weak judiciary and trial proceedings that fall short of international standards. The application of the death penalty in these circumstances is unconscionable, as any miscarriage of justice as a result of capital punishment cannot be undone.”<sup>41</sup> Referring to the execution of seven individuals in Saudi Arabia in April 2013, the High Commissioner expressed concerns that the accused men were reportedly not allowed to speak or given adequate opportunities to conduct their defence. Noting that the defendants were not present during the appeal stages and had no defence counsel representing them, the High Commissioner stated that such serious failings in the process would constitute violations of international safeguards in the use of death penalty, especially those related to the right to a fair trial and the right to appeal.<sup>42</sup>

47. The Special Rapporteur on extrajudicial, summary or arbitrary executions and other special procedure mandate holders of the Human Rights Council also urged several States, including Bangladesh,<sup>43</sup> the Gambia,<sup>44</sup> Iraq, the Islamic Republic of Iran<sup>45</sup>, Saudi Arabia<sup>46</sup>

<sup>40</sup> See “Pillay dismayed at sudden resumption of executions in Afghanistan”. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12817&LangID=E>.

<sup>41</sup> See “Pillay condemns rampant use of death penalty in Iraq”. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13253&LangID=E>.

<sup>42</sup> See “Pillay says Saudi Arabian executions violate international standards”. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13139&LangID=E>.

<sup>43</sup> See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12972&LangID=E>.

<sup>44</sup> See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12461&LangID=E>.

<sup>45</sup> See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12688&LangID=E>.

<sup>46</sup> See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12922&LangID=E> and <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13135&LangID=E>.

and Somalia<sup>47</sup> to maintain stringent respect of due process and fair trial guarantees in death penalty cases.

48. National judiciaries also addressed the importance of fair trial standards in death penalty cases. For instance, in one case,<sup>48</sup> the Eastern Caribbean Supreme Court found that section 52(2) of the Eastern Caribbean Supreme Court Act, which sets a strict 14-day limit for filing appeals to the Court in capital cases, violated defendants' fair trial rights as guaranteed under Section 10 of the Constitution of Saint Kitts and Nevis and article 14 of ICCPR, including adequate time and facilities to prepare a defence.

49. Human rights organizations also reported on trials of capital cases that did not meet the requirements of fair trial. For instance, Amnesty International remained concerned that "in a minority of countries where people were sentenced to death or executed, the death penalty was imposed after proceedings that did not meet international fair trial standards".<sup>49</sup> The Death Penalty Project, in collaboration with the Centre for Prisoners' Rights, published a report that noted Japan's failure to meet its requirements under international human rights law, *inter alia*, in relation to fair trial guarantees.<sup>50</sup> The International Federation of Human Rights published a report on the use of the death penalty in the Democratic Peoples' Republic of Korea in which it noted the systematic denial of the right to a fair trial in death penalty cases.<sup>51</sup>

### C. Access to consular services for foreign nationals

50. Access to consular services is an important aspect of the protection of those foreign nationals facing the death penalty. In its report on "The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition", the Inter-American Commission on Human Rights has examined issues related to due process concerning the failure to comply with the notification requirements of the Vienna Convention on Consular Relations in the execution of foreign nationals in the United States.<sup>52</sup>

51. In the United States of America, a draft bill entitled "Consular Notification Compliance Act of 2011" is currently being reviewed by Congress. This legislation would provide for the judicial review and reconsideration of claims of foreign nationals sentenced to capital crimes without having received consular notification and access.<sup>53</sup>

52. The new EU Guidelines on the death penalty state that, when considering whether legal proceedings provide all possible safeguards to ensure a fair trial, due attention should be given to whether anyone suspected of or charged with a crime for which capital punishment may be imposed has been informed of the right to contact a consular representative.

<sup>47</sup> See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12937&LangID=E>.

<sup>48</sup> Eastern Caribbean Court of Appeal, Appeal HCRAP 2008/002, delivered on 21 March 2012.

<sup>49</sup> Amnesty International, *op. cit.*, page 10.

<sup>50</sup> See <http://content.yudu.com/A22nfv/DPP-Japan-Report/>.

<sup>51</sup> "The Death Penalty in North Korea", International Federation of Human Rights, May 2013, available at <http://www.fidh.org/IMG/pdf/en-report-northkorea-high-resolution.pdf>.

<sup>52</sup> See <http://www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf>.

<sup>53</sup> See <http://www.govtrack.us/congress/bills/112/s1194#>.

## D. Clemency, pardon or commutation

53. Article 6(4) of the International Covenant on Civil and Political Rights states that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Article 4(6) of the Inter-American Convention on Human Rights and the Safeguards Guaranteeing Protection of the Rights of those facing the Death Penalty contain a similar provision stating that capital punishment shall not be imposed while such a petition is pending decision by the competent authority.

54. During the period under review, Amnesty International recorded pardons or commutations of death sentences in 27 States.<sup>54</sup> In the United States of America, the Governor of Colorado granted an indefinite stay of execution to a death row prisoner. In his Executive Order, the governor expressed concern about the State's death penalty system, calling it flawed and inequitable.<sup>55</sup> The Supreme Court of India commuted the death sentence of an individual to life imprisonment on the grounds that "12 years delay in the disposal of the appellant's mercy petition was sufficient for commutation of the sentence of death".<sup>56</sup> Fifty-five death sentences were commuted in Guatemala after the Criminal Division of the Supreme Court of Justice reviewed the cases of death penalty prisoners in the country.<sup>57</sup> In Zambia, 113 death sentences were commuted to life imprisonment by the President.<sup>58</sup>

## E. Prohibition of extradition, expulsion or deportation in the death penalty cases

55. In accordance with the jurisprudence of the Human Rights Committee, an individual may not be extradited, expelled or deported to a country where there is a "necessary and forcible threat" that the International Covenant on Civil and Political Rights will be violated.<sup>59</sup>

56. During the period under review, the issue of the prohibition of extradition, expulsion or deportation of individuals who may face the death penalty to a third country was addressed by international, regional and national mechanisms. For instance, the Human Rights Committee welcomed the actions of the judiciary in Macao, China in blocking the transfer of a person to mainland China. However, it was concerned that, despite its previous recommendation to that effect (CCPR/C/79/Add.115, paragraph 14), Macao, China had not adopted any specific regulation regarding the transfer of offenders from Macao, China to mainland China to protect those persons against the risk of death penalty or ill-treatment upon return (CCPR/C/CHN-MAC/CO/1, paragraph 11).

57. In a judgment, adopted in 25 September 2012, the European Court of Human Rights recalled that Protocol No. 13 to the European Convention on Human Rights, taken together with obligations under Articles 1, 2 and 3 of the Convention, prohibits a member State of the Council of Europe from detaining individuals with a view to extraditing them to stand

<sup>54</sup> Amnesty International, *op. cit.*, p. 6.

<sup>55</sup> See <http://www.deathpenaltyinfo.org/documents/COexecutiveorder.pdf>.

<sup>56</sup> *Mahendra Nath Das v. Union of India and Others*, Criminal Appeal No. NO. 677 OF 2013.

<sup>57</sup> Amnesty International, *op. cit.*, p. 7.

<sup>58</sup> "Zambia: Sata Pardons 615 inmates", available at

[http://www.handsoffcain.info/archivio\\_news/201305.php?iddocumento=17305542&mover=0](http://www.handsoffcain.info/archivio_news/201305.php?iddocumento=17305542&mover=0).

<sup>59</sup> *T. v. Australia* (No. 706/1996) United Nations Document CCPR/C/61/D/706/1996; see also resolution 2005/59 of the Commission of Human Rights.

trial on capital charges or in any way subjecting individuals within its jurisdiction to a real risk of being sentenced to the death penalty and executed.<sup>60</sup>

58. In South Africa, the Constitutional Court decided that the Government is not entitled to deport or extradite a person charged with a capital offence in a country seeking his extradition, after having sought and been refused a written assurance from the extraditing State that the death penalty will not be imposed, or, if imposed, will not be executed.<sup>61</sup>

## F. Methods of execution

59. In his report to the General Assembly, the Special Rapporteur on Torture noted that there is no categorical evidence that any method of execution in use today complies with the prohibition of torture and cruel, inhuman or degrading treatment. Even if the required safeguards are in place, all methods of execution currently used can inflict inordinate pain and suffering. States cannot guarantee that there is a pain-free method of execution (A/67/279, paragraph 41).

60. During the reference period, the international charity organization Reprieve reported on a continued shortage of drugs available for use in lethal injections worldwide. This is due to several key developments, including: export controls placed on the drugs used for lethal injections adopted by the European Commission in December 2010 and by some individual States; and worldwide distribution control rules adopted by a number of pharmaceutical companies to prevent their drugs from being used in executions. In the United States of America, shortages of the “traditional” lethal injection drugs are reported to have led a number of States to change their protocols and use new drugs. The use of previously untested drugs in executions raises concerns about the pain and suffering inflicted on person concerned, which potentially may amount to torture or cruel, inhuman or degrading punishment.<sup>62</sup>

61. During the period under review, public executions were reportedly carried out in the Islamic Republic of Iran, the Democratic People’s Republic of Korea, Kuwait, Saudi Arabia and Somalia. Special procedure mandate holders of the Human Rights Council repeatedly condemned public executions. For instance, with regard to public executions carried out in the Islamic Republic of Iran in January 2013, the Special Rapporteurs on the human rights situation in the Islamic Republic of Iran, on extrajudicial, summary or arbitrary executions and on torture stated that “executions in public add to the already cruel, inhuman and degrading nature of the death penalty and can only have a dehumanizing effect on the victim and a brutalizing effect on those who witness the execution”.<sup>63</sup>

<sup>60</sup> *Rrapo v. Albania* (application no. 58555/10).

<sup>61</sup> *Minister of Home Affairs and Others v. Tsebe and Others; Minister of Justice and Constitutional Development and Another v. Tsebe and Others*; Case CCT 110/11 and CCT 126/11. [2012] ZACC 16; judgment, July 2012.

<sup>62</sup> Submission of Reprieve for this report, dated 28 March 2013.

<sup>63</sup> See “UN Special Rapporteurs condemn on going executions in Iran”. Available at : <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12301&LangID=E>.

## VI. Use of the death penalty against children, persons with mental or intellectual disabilities and other vulnerable groups

### A. Children

62. In accordance with Article 37 (a) of the Convention of the Rights of the Child and Article 6 (5) of the International Covenant on Civil and Political Rights, the death penalty cannot be imposed for offences committed by persons below 18 years of age. General Assembly resolutions on Human Rights in the Administration of Justice (67/166) and on moratorium on the use of the death penalty (67/176), both adopted in 2012, reaffirmed this principle.

63. The United Nations Children's Fund (UNICEF) and human rights organizations reported that several States, including the Islamic Republic of Iran, Iraq, Saudi Arabia and Yemen, are known to have executed children in the past year. In accordance with the Child Rights International Network (CRIN), 15 countries continued to maintain the death penalty for children in their legislation during the reference period.<sup>64</sup>

64. During the period under review, the Special Representative of the Secretary-General on Violence against Children continued her global advocacy for the prevention and elimination of all forms of violence against children, including the risks of death penalty. Through advocacy and policy dialogue with Member States, the Special Representative placed special emphasis on the enactment of national legislation banning capital punishment and all forms of violence against children and called on States to take all necessary measures to immediately suspend the execution of all death penalties imposed for crimes committed by persons below the age of 18. The abolition of the death penalty has also been identified as a critical area of concern in the "Joint report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system", to the Human Rights Council (A/HRC/21/25).

65. In some States, the lack of birth registration and difficulties in determining the age of children leave unenforced the explicit prohibition of the death penalty for persons under 18 at the time of offence. The Special Representative of the Secretary-General on Violence against Children recommended that, where it is not possible to conclusively determine the age of the child at the time of offence, she or he should be presumed to be below 18. All these cases should be reviewed in full conformity with international human rights norms and standards.<sup>65</sup>

66. Human Rights Watch published a report entitled "Look at Us with a Merciful Eye", which discusses cases of juvenile offenders who are awaiting execution in Yemen, and recommends, *inter alia*, that the President of Yemen "order a review of all death sentences where there is doubt that the individual was at least 18 at the time of offence", and "commute all sentences when evidence regarding an offender's age remains inconclusive."<sup>66</sup>

<sup>64</sup> Submission of CRIN for this report, March 2013.

<sup>65</sup> Submission of the Special Representative of the Secretary-General on Violence against Children for this report, April 2013.

<sup>66</sup> Human Rights Watch, "Look at Us with a Merciful Eye", New York, 2013, available at <http://www.hrw.org/reports/2013/03/04/look-us-merciful-eye>.

## B. Persons with mental or intellectual disabilities

67. In accordance with international human rights norms and standards, the imposition of the death penalty is prohibited “for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution”,<sup>67</sup> as well as “for persons suffering from mental retardation or extremely limited mental competence”.<sup>68</sup>

68. In the Caribbean region, the Judicial Committee of the Privy Council and domestic courts continued to restrict the implementation of the death penalty, specifically in relation to those with mental illnesses or impairment. The Judicial Committee of the Privy Council has delivered judgments on appeal in two capital cases<sup>69</sup> where prisoners were sentenced to the mandatory death penalty in Trinidad and Tobago. In each of these cases, fresh medical evidence (psychiatric and psychological) was admitted and the cases were remitted to the Court of Appeal in Trinidad and Tobago for further hearing. In another case,<sup>70</sup> the Eastern Caribbean Court of Appeal also admitted new psychiatric evidence. The conviction for murder was quashed and substituted with manslaughter, on the grounds of diminished responsibility, and a life imprisonment was imposed.

69. According to the Death Penalty Information Centre, around a quarter of those executed or scheduled to be executed in 2012 in the United States of America showed signs of severe mental illness.<sup>71</sup> Moreover, it is estimated that between 5 and 10 per cent of inmates on death row suffer from severe mental illness.<sup>72</sup> In July 2012, the Special Rapporteur on extrajudicial, summary or arbitrary executions urged the Government of the United States of America and relevant authorities to prevent the execution of two individuals with psychosocial disabilities. He emphasized that “it was a violation of death penalty safeguards to impose capital punishment on individuals suffering from psychosocial disabilities”.<sup>73</sup> In August 2012, the State of Texas executed an individual with a significant intellectual disability.

70. The Committee against Torture expressed concerns about reports on the execution of individuals with mental illness in Japan, in contradiction with article 479(1) of its Code of Criminal Procedures which prohibits the execution of “a detainee in a state of insanity”. The Committee urged Japan to ensure that death row inmates were afforded all legal safeguards and protections, *inter alia*, by ensuring “an independent review of all cases when there is credible evidence that death row inmate is mentally ill”, and also to ensure that any “detainee with a mental illness is not executed, in accordance with article 479(1) of its Code of Criminal Procedures”.<sup>74</sup>

## C. Discrimination in the imposition of the death penalty

71. In practice, the decision whether to sentence the convict to death or life imprisonment is often arbitrary and devoid of predictable rational criteria. The application

<sup>67</sup> Economic and Social Council resolution 1989/64, paragraph 1 (d).

<sup>68</sup> Economic and Social Council resolution 1989/64; see also Commission on Human Rights 2005/59.

<sup>69</sup> *Marcus Daniel v. The State* (Trinidad & Tobago) [2012] UKPC 15; *Marlon Taitt v. the State* (Trinidad & Tobago) [2012] UKPC 38.

<sup>70</sup> *Shorn Samuel v. The Queen*, Eastern Caribbean Court of Appeal (Saint Vincent and the Grenadines).

<sup>71</sup> See <http://deathpenaltyinfo.org/documents/2012YearEnd.pdf>.

<sup>72</sup> See <http://www.nmha.org/go/position-statements/54>.

<sup>73</sup> See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12364&LangID=E>.

<sup>74</sup> CAT/C/JPN/CO/2, para. 15.



of the death penalty is frequently discriminatory. It is often used disproportionately against the poor and members of racial, ethnic, religious and sexual minority groups.

72. The new EU Guidelines on the death penalty emphasize that the death penalty must not be applied or used in a discriminatory manner on any ground, including political affiliation, sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

73. During the reference period, Islamic Republic of Iran, Mauritania, Saudi Arabia, Sudan and Yemen continued to retain laws providing the imposition of the death penalty against those found guilty of offences relating to consensual, adult, same-sex relationships that do not meet threshold of “most serious crimes”. In addition, local and regional courts in some parts of Somalia and Nigeria continued to have power to impose the death penalty for such offences on the basis of the Sharia law.<sup>75</sup> While no execution in cases involving consensual same-sex conduct was confirmed in the past year, the mere existence of these laws has a terrorizing effect on an entire community and, as in other places where homosexual relationships are criminalized, also reinforces stigma, and fuels discrimination and violence against anyone perceived to be gay or lesbian. In Uganda, a bill remains before Parliament, which, if passed in its present form, would allow for the imposition of the death penalty in cases of so-called “aggravated homosexuality” – including against repeat offenders and those who are HIV-positive.

74. The Centre for Migrant Workers reported that foreign nationals and migrant workers remained disproportionately affected by the death penalty in several States.<sup>76</sup> With regard to the execution of a foreign national in Saudi Arabia, the Special Rapporteur on the human rights of migrants stated that “given the large number of women migrant domestic workers in Saudi Arabia it is of paramount importance that transparent laws are put in place to ensure that all procedural rights and guarantees are afforded to all persons in Saudi Arabia, no matter their migration status or nationality.”<sup>77</sup>

## VII. Human rights of children of parents sentenced to the death penalty or executed

75. Murder Victims’ Families for Human Rights – a group of family members of murder victims – maintains that “the death penalty does not help to heal and is not the way to pursue justice for victims”. In addition, it argued that the families of the executed can also be viewed as victims under the United Nations Declaration of Universal Principles of Justice for Victims of Crime and Abuse of State Power.<sup>78</sup>

76. In a resolution adopted in March 2013, the Human Rights Council acknowledges the negative impact of a parent’s death sentence and his or her execution on their children, and urges States to provide those children with the protection and assistance they may require. It also calls upon States to provide those children, or, where appropriate giving due consideration to the best interests of the child, another member of the family, with access to their parents and to all relevant information about the situation of their parents (A/HRC/RES/22/11).

<sup>75</sup> A/HRC/19/41, para. 45.

<sup>76</sup> Submission of the Centre for Migrant Advocacy for the report of the Secretary-General on the question of the death penalty, March 2013.

<sup>77</sup> See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12922&LangID=E>.

<sup>78</sup> Murder Victims’ Families for Human Rights, “Creating More Victims: How Executions Hurt the Families Left Behind”, available at <http://www.mvfr.org/sites/default/files/pdf/MVFHReport.pdf>.

77. The Quaker United Nations Office reported that, according to academic and policy studies,<sup>79</sup> children can suffer change or deterioration in their living situation and conditions, relationship with others and physical and mental well-being following parental incarceration. There is a growing body of evidence that documents the specific and serious mental health implications of capital punishment, in particular for children of persons sentenced to death. Those children suffer a uniquely traumatic, profoundly complicated and socially isolating loss often combined with social ostracism.

## VIII. Conclusions

78. **Developments on the question of the death penalty during the reporting period suggest that the trend towards abolition is continuing. However, numerous concerns remain with regard to respect for relevant international human rights norms and standards in States where the death penalty is still imposed. Until it is fully abolished, retentionist States must ensure that the death penalty is imposed only for those crimes that involve intentional killing. It should not be imposed for drug-related offences and any other ordinary crime that does not meet the threshold of “most serious crimes”. The mandatory death penalty is not compatible with the limitation of the use of the death penalty only to “most serious crimes”. States should abolish the mandatory death penalty, where it still exists. States must also ensure that the highest level of compliance with fair trial and other international human rights norms and standards are met in all death penalty cases.**

79. **States should amend national laws on extradition and deportation to specifically prohibit the enforced transfer of persons to States where there is a genuine risk that the death penalty may be imposed in violation of internationally recognized standards, unless adequate assurances are obtained that the death penalty will not be carried out.**

80. **The lack of data on the number of executions or individuals on death row is a serious impediment to international and national debates that may lead to the abolition of capital punishment. It will also be important for the effectiveness and transparency of such a debate to ensure that the public has access to balanced information, including accurate information and statistics on criminality and the various effective ways to combat it, without resorting to capital punishment.**

81. **There is an also urgent need to examine the effects of the capital punishment system in its entirety, including the social, economic and psychological impact on the children of those executed or under death sentence.**

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<sup>79</sup> See Helen F. Kearney, “Children of parents sentenced to death”, February 2012, available at [www.quono.org/geneva/pdf/humanrights/women-in-prison/ChildrenOfParentsSentencedToDeath.pdf](http://www.quono.org/geneva/pdf/humanrights/women-in-prison/ChildrenOfParentsSentencedToDeath.pdf). See also Oliver Robertson and Rachel Brett, “Lightening the load of the Parental Death Penalty on Children”, Quaker United Nations Office, 2013, available at <http://www.quono.org/geneva/pdf/humanrights/women-in-prison/2013LighteningLoad-English.pdf>.